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**TITLE 326 AIR POLLUTION CONTROL BOARD**

**Proposed Rule**  
LSA Document #05-117

**DIGEST**

Amends [326 IAC 10-3-1](#), [326 IAC 10-4-2](#), and [326 IAC 10-4-9](#) and adds [326 IAC 10-4-16](#) regarding the nitrogen oxide reduction program for specific source categories and nitrogen oxides budget trading program. Adds [326 IAC 24](#) concerning the Clean Air Interstate Rule Nitrogen Oxides (NO<sub>x</sub>) Annual Trading Program, the Clean Air Interstate Rule Sulfur Dioxide (SO<sub>2</sub>) Trading Program, and the Clean Air Interstate Rule Nitrogen Oxides (NO<sub>x</sub>) Ozone Season Trading Program. Effective 30 days after filing with the Publisher.

**HISTORY**

First Notice: June 1, 2005, Indiana Register (28 IR 2817).

Second Notice of Comment Period and Notice of First Hearing: December 1, 2005, Indiana Register (29 IR 909).

Change in Notice of First Hearing: January 1, 2006, Indiana Register (29 IR 1243).

Continuation of Second Notice of Comment Period: February 1, 2006, Indiana Register (29 IR 1765).

Change in Notice of First Hearing: March 1, 2006, Indiana Register (29 IR 1965).

Date of First Hearing: June 7, 2006.

[IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses](#)

**PUBLIC COMMENTS UNDER [IC 13-14-9-4.5](#)**

[IC 13-14-9-4.5](#) states that a board may not adopt a rule under [IC 13-14-9](#) that is substantively different from the draft rule published under [IC 13-14-9-4](#) until the board has conducted a third comment period that is at least twenty-one (21) days long.

**REQUEST FOR PUBLIC COMMENTS**

This proposed (preliminarily adopted) rule is substantively different from the draft rule published on December 1, 2005, at 29 IR 909. The Indiana Department of Environmental Management (IDEM) is requesting comment on the entire proposed (preliminarily adopted) rule.

The proposed rule contains numerous changes from the draft rule that make the proposed rule so substantively different from the draft rule that public comment on the entire proposed rule is advisable. This notice requests the submission of comments on the entire proposed rule, including suggestions for specific amendments. These comments and the department's responses thereto will be presented to the board for its consideration at final adoption under [IC 13-14-9-6](#). Mailed comments should be addressed to:

#05-117 CAIR

Susan Bem Mail Code 61-50

c/o Administrative Assistant

Rule Development Section

Office of Air Quality

Indiana Department of Environmental Management

100 North Senate Avenue

Indianapolis, Indiana 46204.

Hand delivered comments will be accepted by the receptionist on duty at the Office of Air Quality, Tenth Floor East, 100 North Senate Avenue, Indianapolis, Indiana. Comments may also be submitted by facsimile to (317) 233-2342, Monday through Friday, between 8:15 a.m. and 4:45 p.m. Please confirm the timely receipt of faxed comments by calling the Rule Development Section at (317) 233-0426.

**COMMENT PERIOD DEADLINE**

Comments must be postmarked, hand delivered, or faxed by August 30, 2006.

**SUMMARY/RESPONSE TO COMMENTS FROM THE SECOND COMMENT PERIOD**

IDEM requested public comment from December 1, 2005, through February 8, 2006, on IDEM's draft rule language. IDEM received comments from the following parties:

American Wind Energy Association (AWEA)

BP Whiting Business Unit (BP)

JSG Processing, Inc (JSG)

Citizens Thermal Energy (CTE)

Cinergy-Duke Energy (DUKE)  
ALCOA Warrick Operations (AWO)  
Purdue University (PU)  
Indiana Energy Association (IEA)  
Hoosier Energy (HE)  
Indiana Municipal Power Agency (IMPA)  
U.S. Environmental Agency (U.S. EPA)  
Mittal Steel (submitted by Squire Sanders) (MS)  
Improving Kids' Environment (IKE)  
American Electric Power (AEP)  
NiSource (NIS)  
Dominion (DOM)

Following is a summary of the comments received and IDEM's responses thereto:

#### **Clean Air Interstate Rule (CAIR) - General**

*Comment:* The adoption of any electric generating unit (EGU) control strategy by IDEM that would require the EGU sector to implement emission reductions beyond those required under the CAIR model rule would result in a significant negative impact on both employment in and the economy of the State of Indiana and emission reductions beyond those in the CAIR model rule are not necessary to reach reductions stated as the basis for the CAIR model rule. (IEA)

*Response:* IDEM is not proposing additional emission reductions beyond CAIR in this rulemaking. If IDEM determines in the future that additional reductions from specific EGUs are needed to bring Indiana counties into attainment, this would be accomplished through a separate rulemaking.

*Comment:* The commenter supports IDEM's and U.S. EPA's position that the CAIR rulemaking does not require states to prepare an attainment SIP to comply with CAIR and the attendant emission reductions are not designed to result in attainment of the national air quality standards (NAAQS). IDEM should work with sources in local nonattainment areas, that might include specific utility sources, to resolve the remaining local nonattainment area issues. (IEA)

*Response:* CAIR is intended to address states' contribution to interstate transport of air pollution that has resulted in ozone and PM<sub>2.5</sub> nonattainment. However, CAIR is one measure of many that will comprise states' attainment strategies.

*Comment:* The commenter endorses IDEM's proposal to meet CAIR emission budgets for SO<sub>2</sub> and NO<sub>x</sub> by requiring power plants to participate in three (3) interstate cap and trade programs administered by U.S. EPA that caps emissions in two (2) phases. (IEA) (IMPA) (DOM) (CTE)

*Response:* IDEM acknowledges the support.

*Comment:* The inclusion of the model rule opt-in language in the draft rule language will have the effect of allowing participation of non-EGUs and the voluntary reductions resulting from such non-EGU sources opting into the cap and trade program will have a beneficial environmental impact on air quality in Indiana. The commenter supports the inclusion of the model rule opt-in language. (IEA) (AEP) (DOM) (CTE) (PU)

*Response:* IDEM acknowledges the support.

*Comment:* The commenter supports IDEM's proposal to prepare a proper fiscal impact statement with input from stakeholders. Extensive comments were submitted to IDEM regarding the impact of CAIR on EGUs. (IEA)

*Response:* IDEM appreciates all the work by stakeholders to comment on the fiscal analysis.

*Comment:* The commenter concurs with the comments developed on behalf of the Indiana Energy Association (IEA). (HE) (AEP) (CTE) (DUKE)

*Response:* IDEM acknowledges the comment.

*Comment:* This rule is important to the health of all Hoosiers and the resulting reductions of nitrogen oxides and sulfur dioxide from electric utilities over the next nine (9) years will improve air quality across the state. (IKE)

*Response:* IDEM agrees.

*Comment:* High ozone levels are still a concern during Indiana summer weather so retaining a summertime NO<sub>x</sub> program is necessary. The commenter agrees with retaining the energy efficiency/renewable energy (EE/RE) set-aside for the summertime NO<sub>x</sub> program and the addition of the annual program. The commenter suggests that the stakeholder group consider whether there are ways to have a single EE/RE program, rather than separate ones in the annual and summertime NO<sub>x</sub> rules. (IKE)

*Response:* IDEM agrees. While there needs to be separate EE/RE programs in each rule, IDEM will integrate the application process upon implementation.

#### **CAIR - EGU Allocations**

*Comment:* The proposed regulations provide that replacement units (including repowered units) are treated as new units for purposes of NO<sub>x</sub> allocations. The regulations are silent, however, as to whether the replaced unit is treated like a retired unit and thus keeps its allocations at least through the initial periods of updating or whether it loses its allocation following replacement. An example is Cinergy's Noblesville plant. Cinergy converted the facility to combine cycle natural gas in 2003 with the coal-fired units ceasing operation in approximately February

2003 and the gas-fired plant beginning operations in May 2003. The commenter understands from conversations with IDEM that IDEM interprets this provision to mean that a replaced unit loses its initial allocation and Noblesville would lose entirely its coal-fired CAIR NO<sub>x</sub> allocation even though the coal-fired units currently receive allocations under the NO<sub>x</sub> SIP Call. Replaced units should continue to receive allocations based on their historic heat input, just as retired<sup>x</sup> units do. This approach will avoid creating disincentives for repowering units, and incentives for greenfield development. (DUKE)

*Response:* IDEM agrees that replaced units should continue to receive allocations based on historic heat input, just as retired units do, for as long as there is heat input for the appropriate years at the time of allocation. IDEM did not include the retired coal-fired units at the Noblesville plant because those units have been dismantled, even though those units would still have received allowances as retired units under the NO<sub>x</sub> SIP Call. The new combustion turbines had not been included because those units did not have three (3) years of heat input data per the rule language. Since the coal-fired units would have continued to receive allowances under the NO<sub>x</sub> SIP Call, IDEM will include those units in the allocation methodology with the understanding that these will be retired units under the CAIR rule. Since many commenters requested that 2005 heat input data be included for the initial allocation and the 2005 data is available, the new combustion turbines at the Noblesville plant will also be included.

*Comment:* In U.S. EPA's final CAIR, the U.S. EPA allocated allowances to states based on their relative heat input, multiplied by a fuel adjustment factor of one (1.0) for coal, six-tenths (0.6) for oil, and four-tenths (0.4) for gas to account for the distinct emission profile of each. IDEM now proposes to modify that approach, using a fuel adjustment of 0.6 for both oil- and gas-fired units. Heat input allocations that distribute allowances based on each unit's pro rata share of heat input alone inappropriately disadvantage coal-fired electric generating units (EGUs). Coal-fired units would not receive allowances sufficient to meet the relevant NO<sub>x</sub> emission rates on which CAIR is based and would be forced to either purchase allowances or install additional control technology that goes beyond what U.S. EPA considers highly cost effective. This amounts to little more than a transfer of wealth while increasing the total compliance cost to the rate payers. IDEM's proposed fuel adjustment factor for gas-fired units also equates to such a transfer of wealth. The commenter has calculated the effective emissions rates for gas-fired units using U.S. EPA's fuel adjustment factors and those proposed by IDEM. Using U.S. EPA's adjustment factors, gas-fired units must meet, on average, an effective emission rate of approximately sixty-five hundredths (0.065) lb/mmBTU. Using IDEM's proposed fuel adjustment factor of six-tenths (0.6) for gas-fired units, gas-fired units must meet, on average, an effective emission rate of approximately ninety-four hundredths (0.094) lb/mmBTU. This rate is significantly higher than the emission rate currently achieved by the majority of gas-fired units and amounts to nothing more than a windfall of allowances that companies can sell for profit or use to cover emissions at their non-gas-fired plants. U.S. EPA also looked at this issue as part of the reconsideration of CAIR and concluded that both gas- and oil-fired units get allowances they need to operate, without installing control equipment, using the U.S. EPA fuel adjustment factors. U.S. EPA's analysis also shows that even if gas-fired units on occasion fire oil as an emergency backup, they are unlikely to experience any shortfall in allowances or only a small shortfall. A small shortfall for some units does not support changing the factors given the enormous reductions (and costs) that must be borne by coal-fired units. The State of Indiana was a strong supporter of the Clear Skies bill that included NO<sub>x</sub> allocations with fuel adjustment factors nearly identical to those in the final federal CAIR rule. The commenter strongly opposes the proposal to apply a six-tenths (0.6) fuel adjustment factor to gas-fired units and requests that IDEM adopt the fuel adjustment factors included in CAIR. (DUKE)

*Comment:* The commenter supports a fuel neutral allocation method, but does not strenuously object to the sixty percent (60 %) fuel adjustment factor proposed in the draft rule language for non coal-fired unit commencing operation prior to January 1, 2001. (NIS)

*Response:* IDEM is amending the draft language for preliminary adoption to include the fuel factors consistent with the U.S. EPA model rule; (1.0) for coal, six-tenths (0.6) for oil, and four-tenths (0.4) for gas. If the unit combusts fuel oil for more than fifteen percent (15%) of the annual heat input in a specified year then it is considered oil fired for allocation purposes.

*Comment:* IDEM's proposal penalizes new coal-fired generation through the use of a uniform factor to convert electrical output to heat input. The draft rule language proposed that all new units would receive allocations based on a conversion of electrical output to heat input using a uniform factor of eight thousand nine hundred (8,900) Btu/kWh divided by one million (1,000,000) Btu/MMBtu regardless of whether the new unit is fueled by coal, oil, or natural gas. This approach imposes a penalty on (new) coal-fired units and an unnecessary economic incentive to build new gas-fired units since gas-fired units require less heat input per unit of electrical output. U.S. EPA has adopted an approach which recognizes the need for fuel diversity and appropriately differentiates between coal- and gas-fired generation. In the CAIR model rule, U.S. EPA recommends that conversion of electrical output to heat input be accomplished through a conversion factor of seven thousand nine hundred (7,900) Btu/kWh divided by one million (1,000,000) Btu/MMBtu for coal-fired units and six thousand six hundred seventy-five (6,675) Btu/kWh divided by one million (1,000,000) Btu/MMBtu for all other types of units. The commenter requests that IDEM revise the approach in the proposed rule and adopt U.S. EPA's conversion

factors for coal-fired units and other fossil fuel-fired units. (DUKE)

*Response:* IDEM had modified the conversion factor compared to the model rule for new units to convert from electrical output to heat input to provide a greater benefit for more efficient units with one conversion factor for coal, oil, or natural gas units. IDEM agrees that the rule should retain two (2) factors, as the model rule does, with one for coal units and one for non-coal units using factors that provide a greater benefit for more efficient units. In the proposed rule, IDEM modified the new unit language to include a conversion factor of eight thousand nine hundred (8,900) Btu/kWh divided by one million (1,000,000) Btu/MMBtu for coal-fired units and seven thousand six hundred (7,600) Btu/kWh divided by one million (1,000,000) Btu/MMBtu for all other types of units. The conversion factor is based on a energy efficiency of thirty-eight percent (38%) for coal units; any unit with an efficiency greater than thirty-eight percent (38%) would be get a bonus. For natural gas, any unit operating above forty-five percent (45%) efficiency would get a bonus.

*Comment:* The commenter supports IDEM's proposal to use the time period from 1998 through 2004 to determine baseline heat input. In addition, since this rulemaking is taking place in 2006, the commenter requests that IDEM add the year 2005 to the base year period and that future year allocations be based upon the control period heat inputs for the eight (8) years prior to when the CAIR allocation is being calculated. (IEA)

*Comment:* The commenter supports the baseline heat input determination by using the average of three (3) highest years of a unit's adjusted control period heat input from the baseline review period. The look back period should be extended even further from the proposed seven (7) year look back to include all data reasonably available in order to establish the most representative heat input baseline for each unit. An eight (8) to ten (10) year look back period would better provide the appropriate length of time for all sources to experience "normal" representative operations for at least three (3) years during the period. A ten (10) year period would provide an adequate or reasonable length of time to cover individual unit outage cycles and business cycles. The heat input review period in the draft rule should be expanded to, at least, include 2005 for an eight (8) year period to look back from 1998 through 2005. If updating the database to include the years 1996 and 1997 proves to be a difficult task, then the first allocation period could include data for eight (8) years with subsequent allocations using a ten (10) year period. (NIS)

*Comment:* The baseline for allocations should not be fixed, but should be revised periodically. However, the baseline should be revised every six (6) years for both ozone season and annual programs. For the first summer ozone period it should be a five (5) year allocation period since the 2009 allocations have already been made, and then cycle the revision period to six (6) years to synchronize the programs. (IEA) (NIS) (DOM)

*Comment:* The commenter agrees with IDEM's approach for the NO<sub>x</sub> allowance allocation periods of three (3) years with look back periods of seven (7) years. (IMPA)

*Response:* After considering the comments received on allocation timing and the look back period for heat inputs, IDEM proposes to allocate allowances for six (6) years, six (6) years in advance, using an eight (8) year look back period using 1998 to 2005 for the first allocation period. For the ozone season trading rule, the first allocation will be for five (5) years since the 2009 allocations have already been made.

*Comment:* In order to provide new units with the opportunity to participate in the allocation from the main trading program sooner, IDEM should treat allocations for newly operating sources in a manner similar to the handling in the Indiana NO<sub>x</sub> SIP Call regulations where units can use a shorter averaging time and look back period for heat input. Allowing these sources the option to receive an allocation from the main EGU pool and not the new unit set-aside would assure equitable treatment while minimizing the resources required for administration of the trading program. (NIS)

*Response:* During the development of the NO<sub>x</sub> SIP Call, IDEM faced the prospect that the new unit set-aside would be over-subscribed for a number of years and sought provisions that could provide some relief for the new units. Information to date indicates that this situation will not occur under the CAIR rules and the new unit set-aside will be able to support new units until the units are included in the main allocation pool.

*Comment:* The commenter strongly supports the methodology proposed in the draft rule language for determination of converted control period heat input. IDEM has modified the methodology proposed by U.S. EPA in the model rule. The treatment proposed by IDEM to develop the converted heat input in order to establish the baseline heat input for combined heat and power facilities (CHP) is more technically sound and improves upon the method proposed in the final CAIR. (NIS)

*Response:* IDEM acknowledges the support.

#### **CAIR - Compliance Supplement Pool (CSP)**

*Comment:* The commenter supports the incorporation of a compliance supplement pool (CSP) allowance allocation methodology that provides certainty for the regulated utilities as included in the draft language. The process of applying for potential early reduction credits and assurance that a known quantity will be available for distribution is critical, as it provides utilities with an incentive prior to operation of expensive post-combustion control equipment year round. (DUKE)

*Comment:* The commenter supports the incorporation of a CSP allowance allocation methodology that provides certainty for the regulated utilities as included in the draft language. (IEA) (NIS) (DOM)

*Comment:* IDEM has included a CSP in the annual NO<sub>x</sub> program, which should provide incentives for

sources to make early reductions. The commenter agrees with the approach of pre-apportioning the pool to all eligible sources so that those who do implement early reductions will be assured at least a certain number of allowances from the pool. (IKE)

*Response:* IDEM acknowledges the support.

*Comment:* The commenter does not support the option of CSP allowances awarded for co-benefit mercury reductions, however option 2 for limiting eligible units to those that are operating post combustion controls for NO<sub>x</sub> emissions should reward similar control configurations. (DUKE)

*Comment:* The commenter does not support the option of CSP allowances awarded for co-benefit mercury reductions. While the commenter is generally opposed to using the NO<sub>x</sub> CSP in this fashion, it can support the inclusion of the draft language presented at the December 15, 2005, CAIR/CAMR workgroup meeting because the language does not reduce the opportunity for units making NO<sub>x</sub> reductions in accordance with the provision of the rule to obtain their full allocation of CSP allowances prior to any bonus mercury reduction allowances being issued. (IEA) (AEP) (NIS)

*Comment:* As originally proposed, it would not serve as an incentive to add scrubbers or selective catalytic reduction controls beyond those already planned, since the lead time for the design, procurement, and construction of this equipment would far exceed the time available following adoption of the rule. (AEP)

*Comment:* IDEM should exclude the mercury co-benefit portion of the CSP in the Indiana CAIR in favor of addressing it under the upcoming Indiana Clean Air Mercury Rule (CAMR) rulemaking. IDEM should withdraw the provisions for consideration of mercury co-benefits and the CSP should be reserved for the purposes U.S. EPA intended, i.e., to encourage early reductions in NO<sub>x</sub> emissions. (DOM)

*Comment:* The commenter would like to see the rule provide extra credit in the CSP to units that install technology that maximizes mercury reductions. (IKE)

*Response:* U.S. EPA has recognized the co-benefits of mercury reductions through control technologies installed to comply with CAIR by coordinating Phase 1 of the Clean Air Mercury Rule (CAMR) with Phase 1 of CAIR. IDEM is proposing to include a mercury co-benefit in the CSP to build upon these co-benefits and award additional allowances to units that operate controls that also reduce mercury emissions, for example, units with electrostatic precipitator (ESP), flue gas desulfurization (FGD), and selective catalytic reduction (SCR) where the SCR is operated year round. However, the incentive is structured so that eligible units making NO<sub>x</sub> reductions still have the opportunity to reserve their full allocation of CSP allowances, and bonus mercury reduction allowances are awarded using allowances that are not reserved or are reserved but not used. U.S. EPA has raised concerns about the approvability of state revisions to the model rule language for the CSP, and IDEM continue discussions with U.S. EPA and the stakeholders on this section of the rule.

*Comment:* The commenter supports option 2 (post-combustion controls) for the CSP NO<sub>x</sub> allowance allocations. The CSP should be used to provide incentives to operate post combustion controls for NO<sub>x</sub> emissions during the non-ozone season and without that incentive, those controls will not be operated until 2009. Option 1 (allocated allowances for any unit with emission rates below its Title IV limit) would not result in additional emission reductions, but reward units for continued normal operation. In addition, if a unit is part of a Title IV averaging plan and compensating for a higher emitting unit, its "reduced emissions" are already accounted for in another compliance program and not "surplus" to be rewarded under CAIR. The cost associated with operation of post combustion controls should be compensated, rather than diluted by the distribution process with incidental reductions from modifications to unit operations for economy, efficiency, or Title IV compliance. (DUKE)

*Comment:* The commenter supports option 2 in [326 IAC 24-1-8\(g\)\(1\)\(A\)](#) for defining units eligible to receive credits from the CSP. Option 2 is the better approach, as it ensures that actual reduction technology is installed. (IKE)

*Comment:* The commenter supports option 1 for the CSP NO<sub>x</sub> allowances allocations, which allows units that can achieve applicable acid rain NO<sub>x</sub> emissions without using averaging to be eligible units. (HE)

*Comment:* Encouraging the utility industry to invest in NO<sub>x</sub> controls in advance of the 2009 effective date of the emissions limitations in CAIR is a worthwhile idea. Recognizing that the rule uses trading and averaging as its means of compliance, all NO<sub>x</sub> reductions made in advance of 2009 should be rewarded. Therefore, the commenter supports option 1 that rewards all NO<sub>x</sub> emission reductions made during 2007 and 2008 at below the acid rain baseline with CSP allowances. (AEP)

*Comment:* The commenter supports option 1 method for determination of units eligible for reserving CSP allowances. This option provides for the greatest participation of sources that can achieve emission reductions and would provide the largest amount of "emissions reductions." (NIS)

*Response:* After discussion with the workgroup, IDEM is proposing to include a variation of options 1 and 2 in the draft rule language for preliminary adoption. IDEM is proposing that an eligible unit is one that has or will have post-combustion NO<sub>x</sub> control equipment installed before December 31, 2008 or for all other units one that is able to achieve a NO<sub>x</sub> emissions rate that is at least ten percent (10%) lower than the heat input weighted average NO<sub>x</sub> emission rate for 2003 through 2005, excluding May 1 through September 30 of each year. Also, eligible units must be coal-fired CAIR NO<sub>x</sub> units. The ten percent (10%) restriction does not reduce the amount of allowances awarded to an unit, but units that do not meet this threshold will not be awarded the reserved



allowances. For units without post-combustion NO<sub>x</sub> controls that are part of a common stack group, the ten percent (10%) restriction is applied to the entire common stack group. IDEM is not proposing to include, at this time, a restriction suggested by some stakeholders on awarding additional allowances under the mercury co-benefit incentive that provides that the actual amount of additional allowances cannot exceed the number of actual emissions reductions achieved in excess of the amount of reserved allowances. IDEM will continue to discuss this provision further with the workgroup and U.S. EPA for approvability.

*Comment:* IDEM should modify the "emission reduction" calculation to allow owners/operators to determine emission reduction amounts during "true-up" based upon the emission reductions for the entire system. The system owner should have the option to aggregate system-wide emission reductions in order to demonstrate that the reserved unit-specific allowance reductions for the system have been achieved. This method will assure that units requiring major outages for installation of emission control devices for CAIR compliance would not be unjustly penalized for this beneficial activity. Unit outages for control device installation will most likely occur during the periods mentioned in the rule for determining heat input used in the calculation (October through May). (NIS)

*Response:* Currently, the rule language is drafted so that reservations and allocations are done on a unit basis. Units that reduce emissions above the amount of reserved allowances may receive some additional allowances as part of the redistribution process for unreserved/unclaimed allowances. IDEM acknowledges the commenter's concern and is willing to discuss this concept further if necessary.

*Comment:* The installation date for controls on eligible units in the CSP should be changed to provide certainty to the utilities. Since early reduction credits are earned in 2007 and 2008, the post combustion controls should be installed prior to January 1, 2007, not December 31, 2008. Some permit/construction activity should be underway prior to a unit being deemed eligible or a possibly significant portion of the CSP could be reserved, but never claimed, although, IDEM does allow for redistribution. (DUKE)

*Response:* IDEM believes that changing the date may exclude sources that could generate at least some early reductions, even though those reductions may only occur in 2008.

*Comment:* The second phase of CAIR reductions also provides an excellent opportunity for utilities to choose to install equipment that will reduce mercury emissions as well as NO<sub>x</sub> and SO<sub>2</sub>. In fact, it is likely a better opportunity than the first deadline, since many sources have already had to finalize compliance plans for the 2009 deadline, but are not yet committed to a strategy for phase 2. Since there is no compliance supplement pool for the second phase, the commenter suggests that IDEM create one to provide an incentive for mercury-friendly early reductions. Two (2) potential sources of credits to build this second phase early reduction credit pool are unused allowances in the new source set-aside or in the energy efficiency/renewable energy set-aside. All or a portion of the unused allowances in one or both set-aside could be banked for use as a second phase early reduction credit pool. IDEM should consider this suggestion as well as whether there might be other ways to create mercury reduction incentives in phase 2 of CAIR and put it on the agenda for the stakeholder group to discuss prior to preliminary adoption. (IKE)

*Response:* Even without a phase 2 CSP for CAIR there are incentives to comply with CAIR in ways that maximize mercury reduction co-benefits. After 2010, the phase 1 compliance date in CAMR, sources can bank mercury allowances. In CAIR, early reduction credits can only be awarded for NO<sub>x</sub> allowances. The new source set-aside and EE/RE budgets would provide a limited number of NO<sub>x</sub> allowances. In phase 1 the combined budget total is five thousand four hundred forty-seven (5,547) tons. Finally, U.S. EPA has raised concerns about the approvability of state revisions to the model rule language for the CSP.

#### **Transition from NO<sub>x</sub> SIP Call rule**

*Comment:* The draft rule language specifying that 2009 ozone season allowances are those that were recorded by U.S. EPA as of the effective date of the state CAIR rule is appropriate given that many of these allowances have been involved in trading in a limited number of states. IDEM should clarify the disposition of the 2009 allowances in the final rule and work with U.S. EPA and the other three (3) states that are affected by this issue to ensure that the disposition is consistent in all states. (IEA) (NIS) (DOM)

*Response:* U.S. EPA has reviewed the draft language regarding 2009 ozone season allowances and found it appropriate.

*Comment:* All of [326 IAC 10-4](#) can not be eliminated until after the 2008 ozone control period and reporting is completed and all of the allowances allocated under [326 IAC 10-4](#) have been consumed at some future date. IDEM should defer sunseting [326 IAC 10-4](#), except for the allocation provisions in [326 IAC 10-4-9\(b\)\(1\)\(C\)](#), until sometime in 2009 when there will be certainty regarding any issues with the transition from the NO<sub>x</sub> SIP Call rule to CAIR. (IEA)

*Comment:* There may be unintended consequences with sunseting the entire NO<sub>x</sub> SIP Call rule. (NIS) (DOM)

*Comment:* Although it is appropriate to sunset [326 IAC 10-4-9\(b\)\(1\)\(C\)](#) by December 31, 2006, assuming the rule is in effect by that date, IDEM's plan to sunset all of [326 IAC 10-4](#) by December 31, 2008 is potentially problematic. Until the 2008 ozone control period allowances are trued up and deducted from accounts, shutting down that portion of the NO<sub>x</sub> SIP Call rule may not be possible. Further, the banking provisions in [326 IAC 10-4-](#)

14(a) may need to be retained indefinitely until all of the allowances issued under the NO<sub>x</sub> SIP Call rule and banked are ultimately consumed or permanently retired by IDEM and/or U.S. EPA. IDEM<sup>x</sup> needs to carefully consider the implications of each section and subsection of [326 IAC 10-4](#) prior to establishing a sunset date for each activity in [326 IAC 10-4](#) to avoid unintended consequences that could be not be quickly corrected. (AEP)

*Comment:* The proposed amendments to the current NO<sub>x</sub> SIP Call trading rules to address the sunset of the NO<sub>x</sub> SIP Call should be modified as follows:

Sec. 1. (a) Section 9(b)(1)(C) of this rule shall sunset on December 30, 2005.

(b) All other provisions of [326 IAC 10-4-1](#) through [326 IAC 10-2-14](#) shall ~~sunset on December 31, 2008~~ **not apply to any control period in 2009 and thereafter.**

Further, IDEM should add to the compliance provisions of the NO<sub>x</sub> SIP Call trading rule language stating that, for purposes of making deductions for excess emissions for the ozone<sup>x</sup> season in 2008, the U.S. EPA will deduct allowances allocated under the CAIR NO<sub>x</sub> ozone season program for the ozone season in 2009. (U.S. EPA)

*Response:* IDEM agrees that the NO<sub>x</sub> SIP Call should not be amended to include a December 31, 2008 sunset date and is revising the draft rule in [326 IAC 10-4-16](#) as suggested by U.S. EPA. IDEM has also added the following language to [326 IAC 10-4-16](#), "The 2009 NO<sub>x</sub> allowances allocated under section 9 of this rule remain in effect for purposes of the Clean Air Interstate Rule (CAIR) NO<sub>x</sub> ozone season trading program in [326 IAC 24-3](#)." [326 IAC 10-4-16](#) no longer includes a sunset date for [326 IAC 10-4-9\(b\)\(1\)\(C\)](#) since IDEM is now proposing to delete [326 IAC 10-4-9\(b\)\(1\)\(C\)](#) from the NO<sub>x</sub> SIP Call rule.

*Comment:* Purdue's Boiler #5 is a circulating fluidized bed boiler. During the NO<sub>x</sub> SIP Call rulemaking ending in 2001, Purdue's Boiler #5 "2007 projected uncontrolled emission rate" was listed in IDEM documents as nine-hundredths (0.09) lb/MMBTU. As a CFB boiler is already controlled for NO<sub>x</sub> by virtue of the combustion technology, the commenter believes this value is incorrect. The value is intended<sup>x</sup> to be used as a starting point where, further in the calculations, some NO<sub>x</sub> reduction is required over the baseline uncontrolled emissions leading to calculation of the unit's allocation<sup>x</sup>. As Boiler #5's baseline emissions for the NO<sub>x</sub> SIP already reflected NO<sub>x</sub> control, the unit essentially was controlled twice in the calculations. The uncontrolled emission rate should be six-tenths (0.6) lb/MMBTU; the new source performance standard (NSPS) at the time of Boiler #5's construction and the limit in Boiler #5's Part 70 permit. Had this value been correct, Purdue would have received an allocation which would have been greater for the 2004-2009 interval than Purdue is currently allocated. Hence, the commenter requests that IDEM re-examine the allocations the university has received for 2006-2009 and adjust the allocations accordingly. (PU)

*Comment:* Due to the delay of their entry into the NO<sub>x</sub> SIP, Purdue's other three (3) boilers (#1, #2, #3) at the Wade utility plant were not included in the 2001 large affected unit allocation process. Had they been included from the beginning of the rulemaking, Purdue would have received an allocation which would have been greater for the 2004-2009 interval than Purdue is currently allocated. The commenter requests that IDEM re-examine the allocations for boilers #1, #2, and #3 as if they had been incorporated into the NO<sub>x</sub> SIP from the beginning and adjust the university's allocations for 2006-2009 accordingly. (PU)

*Response:* To address issues regarding a deficient amount of allowances compared to emissions for pre-2010 allocations in the NO<sub>x</sub> SIP Call IDEM is amending the NO<sub>x</sub> SIP Call to allocate Purdue University an additional sixty (60) tons of NO<sub>x</sub> ozone season allowances for each<sup>x</sup> ozone control period in 2007 through 2009. Allowances for these three (3) control periods will be awarded one hundred twenty (120) days after the effective date of this rulemaking.

### **Energy Efficiency/Renewable Energy (EE/RE) Provisions**

*Comment:* Emission-free wind energy and other renewable energy resources must play an integral role in the cost-effective achievement of the Clean Air Interstate Rule (CAIR). While wind energy is the fastest growing U.S. source of electricity generation, there is still a large untapped wind resource that could contribute to Indiana's generation mix and assist with CAIR compliance. One important way that Indiana can better take advantage of the wind opportunity is to allocate annual and seasonal NO<sub>x</sub> allowances to wind projects in its CAIR implementation. Within a cap-and-trade program, increased<sup>x</sup> renewable generation reduces the demand for emissions allowances and thereby reduces the cost of allowances and the cost of compliance for fossil generators and ultimately for the electric utility ratepayers. In CAIR, there is an easy approach to integrating renewable energy into the NO<sub>x</sub> allocation system. CAIR allocates allowances to new generators based on their electric output. This approach<sup>x</sup> can be used to directly allocate allowances to wind projects on the same basis as other new generators without having to establish and administer a separate allowance set-aside by adding a definition of covered unit that includes non-emitting electric generating projects and amending the allocation section for new sources to include covered units, not just CAIR NO<sub>x</sub> units. An alternative approach is to set up an energy efficiency/renewable energy set-aside. State and Territorial<sup>x</sup> Air Pollution Program Administrators and the Association of Local Air Pollution Control Officials (STAPPA/ALAPCO) has released a document titled, "Alternative NO<sub>x</sub> Allowance Allocation Language for the Clean Air Interstate Rule" that provides sample rule language. The commenter urges Indiana to adopt one or both of these approaches. (AWEA)

*Response:* IDEM is including an energy efficiency/renewable energy set-aside in both the annual and ozone

season NO<sub>x</sub> trading rule that will allow wind energy projects to receive allowances.

*Comment:* Currently Indiana's clean energy credit program has no direct correlation with the calculation of credits that take into account the off-set or displacement of natural gas from the use of renewable fuels. Since the use of the renewable fuel will replace the combustion of natural gas and natural gas combustion is a contributor to Indiana's total nitrogen oxide production, credits should be based on a Btu value of natural gas displacement as well as a megawatt value for electricity generation from renewable sources. (JSG)

*Response:* IDEM agrees that encouraging the use of renewable fuels is an important component of an EE/RE program and has modified the definition of energy efficiency or renewable energy projects to include renewable energy projects that displace the use of coal, natural gas or oil through the use of renewable fuel that reduce NO<sub>x</sub> emissions. IDEM has also included this as an amendment to the NO<sub>x</sub> SIP Call rule at [326 IAC 10-4](#) so that these types of projects can receive allowances as soon as the rule is effective without having to wait until 2009 when the CAIR rule will be implemented.

*Comment:* The commenter appreciates the inclusion of text in the draft language to allow requests for NO<sub>x</sub> allowances under the annual and ozone season programs for new integrated gasification combined cycle (IGCC) projects in [326 IAC 24-1-2\(40\)\(G\)](#) and [326 IAC 24-3-2\(40\)\(G\)](#). While the U.S. Department of Energy sees great environmental promise in IGCC the first few projects that go forward still carry significant barriers to commercialization due to technological risks and cost premiums. The energy efficiency/renewable energy (EE/RE) language needs to be strengthened to provide greater support for IGCC projects, especially for those that take the initial risk of building and operating them until they gain the same commercialization foundation as with conventional new coal generating facilities. The commenter recommends that both the annual and ozone season EE/RE formulas by which IGCC projects are granted allowances be modified, subsection (h)(3)(G) in the annual program and (g)(3)(G) in the ozone season program, as follows (additional language shown in bold):

**"For units which first start commercial operation between January 1, 2009 and December 31, 2014;**

**Allowances = (kWg × (0.0015 - NO<sub>x</sub>) × 0.50)/2,000**

**For units which first commercial operation after December 31, 2014;**

Allowances = (kWg × (0.0015 - NO<sub>x</sub>) × 0.25)/2,000" (DUKE)

*Comment:* The installation of IGCC technology should not be penalized by such an onerous discount factor of seventy-five percent (75%) from the actual tons of reductions. The commenter requests that IDEM increase the credit allowed for the use of IGCC technology to fifty percent (50%). (IEA)

*Response:* IDEM has re-evaluated the discount factor for EE/RE projects that also receive allowances under the CAIR NO<sub>x</sub> trading programs. IDEM is proposing to change all discount factors, not just IGCC projects, to a fifty percent (50%) discount factor. A fifty percent (50%) factor provides for a compromise from providing too many allowances for projects that are already receiving NO<sub>x</sub> allowances and incentives for energy efficient production of electricity with less NO<sub>x</sub> emissions. IDEM is not proposing to decrease the discount factor for later IGCC projects as suggested since the discount factor has been changed throughout the calculations in the EE/RE set-aside.

*Comment:* While the EE/RE set-aside is a useful program, based on past historical demand, the amount of allowances used for this purpose should be reduced from a full one percent (1%) of the utility allowances to one-half percent (0.5%). IDEM should clarify the grant program and the ultimate disposition of these allowances. For example, the rule should specify whether the EE/RE allowances would be given to small projects to sell or retire or whether the state would conduct an auction of these allowances and use the proceeds to fund economic development grants. These clarifications are needed to make this a workable program. IDEM should develop an accounting system as a means to ensure that the grants of allowances result in actual reductions of NO<sub>x</sub> emissions, either directly or indirectly, in Indiana. (IEA) (AEP) (NIS)

*Comment:* While the EE/RE set-aside is a useful program, based on past historical demand, the amount of allowances used for this purpose should be reduced from a full one percent (1%) of the utility allowances to one-half percent (0.5%). (DOM)

*Comment:* The criteria for determining projects worthy of grants and the amount available for each grant should be explicitly spelled out in the rule as they are for awarding EE/RE allowances. (NIS)

*Response:* After considering comments received on the EE/RE set-aside in the annual NO<sub>x</sub> trading program IDEM is proposing to reduce the EE/RE set-aside from one percent (1%) of the utility allowances to one-half percent (0.5%). In addition, IDEM is proposing to add additional flexibility to the rule so that if the EE/RE set aside is oversubscribed allowances from the new source set aside can be used, if available, and vice versa. IDEM is still working out the details of the EE/RE set-aside grant program.

*Comment:* IDEM should expand the universe of coal-fired technologies to be encouraged under the EE/RE program. The draft rule language included integrated gasification and combined cycle (IGCC) as a technology eligible to receive EE/RE allowances. IGCC is currently an emerging technology that has yet to prove the performance, reliability, or economic claims advertised for small-scale gasifiers. By selecting a specific technology, instead of setting the outcome required of the technology, IDEM effectively shuts off many viable, cost effective options that exist today and closes the door on new technologies. The following changes should be made to the definition at [326 IAC 24-1-2\(40\)](#) (and the parallel definition in [326 IAC 24-3-2\(40\)](#)) for "Energy efficiency or renewable energy projects":



(G) The installation of ~~integrated gasification combined cycle equipment for producing electricity for sale~~  
**coal-fired technologies as defined in 326 IAC 24-1-2(64) for electric or steam production.**

To further implement the suggested change to the EE/RE definition IDEM should amend [326 IAC 24-1-8\(h\)\(2\)\(C\)](#) and [326 IAC 24-3-8\(g\)\(2\)\(C\)](#) that relates to requests for allowances from the EE/RE set-aside as follows:

"The NO<sub>x</sub> allowance allocation request for ~~an integrated gasification combined cycle~~ **coal-fired technologies as defined in 326 IAC 24-3-2(65) for electric or steam production** project under section 2(40)(G) of the rule must be submitted..." (CTE) (PU)

*Response:* IDEM agrees and has addressed this comment by adding steam generation to [326 IAC 24-1-2\(38\)\(B\)](#) for highly efficient generation in the definition of energy efficiency or renewable energy projects instead of broadening the types of coal-fired technologies in [326 IAC 24-1-2\(38\)\(G\)](#).

*Comment:* Under the EE/RE set-aside provisions at [326 IAC 24-3-8\(g\)\(3\)\(K\)](#) there is language stating that, "...Allowances shall be awarded only after verification of project implementation and certification of energy, emission, or electricity savings, as appropriate. The department shall consult the office of lieutenant governor concerning verification and certification." IDEM should clarify this process. (CTE) (PU) (AWO)

*Response:* This verification process applies to all projects, not just those in clause (K).

*Comment:* IDEM should review [326 IAC 24-1-8\(g\)\(3\)\(A-K\)](#) and [326 IAC 24-3-8\(g\)\(3\)\(A-K\)](#) for clarity in units, source data requirements, and arrangement of equations, as the equations are difficult to understand. For example, the allowance equation in [326 IAC 24-3-8\(3\)\(C\)](#) contains a variable "NPt1" which is defined to mean "...NO<sub>x</sub> produced during the consumption of energy...". It is unclear what exactly this means. (PU) (AWO)

*Response:* IDEM has modified "consumption of energy production" to read "production process" to clarify "NPt1."

*Comment:* The allocation equation in [326 IAC 24-3-8\(g\)\(3\)\(K\)](#) uses a seventeen-hundredths (0.17) multiplier with the term "HeatOut." Because projects potentially seeking allocations using this equation may indeed have NO<sub>x</sub> emission rates greater than seventeen-hundredths (0.17) lb/MMBtu (e.g. co-located potentially high emission non-affected sources), IDEM should allow a stack test, permitted limit, or the seventeen-hundredths (0.17) lb/MMBtu multiplier to determine the pre-project NO<sub>x</sub> emission rate. (PU) (AWO)

*Response:* IDEM has revised the draft rule language as suggested.

#### **CAIR - Miscellaneous**

*Comment:* To the extent possible, IDEM should incorporate by reference 40 CFR Part 96, Subparts AA through CC, FF through II, AAA and CCC, FFF through III, AAAA and CCCC, and FFFF through IIII since IDEM's draft trading regulations replicate most of the provisions of 40 CFR Part 96. Doing so will also ease the administrative burden for IDEM in the future when final changes to U.S. EPA's CAIR model trading rules are promulgated and must be integrated into Indiana's SIP. (U.S. EPA)

*Comment:* Although many pages will be added to the Indiana Administrative Code as a result of this rule, it is best to include all of the federal language, rather than incorporate by reference, so that the complex and lengthy requirements are fully available to the public and affected sources. (IKE)

*Response:* Given the complexity of the rules and that the NO<sub>x</sub> SIP Call rules are also in full text in the state rule, IDEM agrees that it is appropriate to provide text for all three<sup>x</sup>(3) trading rules in the state rule to be consistent for all three (3) CAIR trading rules.

*Comment:* Throughout the proposed Article 24 there are concluding paragraphs that indicate documents and federal regulations are included by reference and available from the Government Printing Office in Washington, D.C. We recommend IDEM identify the specific date of the referenced federal regulation so the applicable regulatory condition intended in Article 24 is preserved when the federal provision is updated. (NIS)

*Response:* All references in the rule refer to a specific edition of the Code of Federal Regulations (CFR) defined in [326 IAC 1-1-3](#). When this definition is updated annually the applicable regulatory condition is updated as changes are made to the CFR. IDEM thinks it is appropriate to update these federal references to keep current with federal rule changes and reviews these changes with each annual update.

*Comment:* IDEM has incorporated U.S. EPA's proposed corrections and modifications to the model trading rules published in the Federal Register on August 24, 2005. Please note that the proposed corrections to the U.S. EPA's CAIR model trading program rules are not yet final and that U.S. EPA may adopt different corrections and modifications in the final rules expected to be issued in March 2006. Any State that wants to participate in the U.S. EPA-administered CAIR trading programs, must have trading program rules that are substantively identical (with certain exceptions specified in 40 CFR 51.123 and 51.124) to the final CAIR model trading rules, expected to be issued in March 2006. Please keep this in mind as you move forward through your rulemaking process so that any final changes in the CAIR model trading program rules can be incorporated into your final rules. (U.S. EPA)

*Response:* U.S. EPA finalized the amendments on the model trading rules on April 28, 2006 (71 FR 25328) and IDEM has included these amendments, as appropriate, in the rule language that will be presented to the board for preliminary adoption.

*Comment:* IDEM has taken out all references to "permitting authority" in the rules and replaced it by "Department." This change makes sense given the fact that IDEM has the authority to issue federally enforceable

permits. If that authority were to ever be rescinded, the CAIR trading rules would need to be amended to reflect the change in the permitting authority. (U.S. EPA)

*Response:* IDEM understands and would seek to amend the CAIR trading rules if this ever happened.

*Comment:* IDEM failed to adopt the appeal procedures language in 40 CFR 96.108, 96.208, and 96.308. This language must be included in each of IDEM's CAIR trading program regulations, since it stipulates that appeals of decisions made by the U.S. EPA in implementing IDEM's CAIR trading programs must follow the requirements in 40 CFR Part 78. (U.S. EPA)

*Response:* IDEM has added the appeals procedures from the U.S. EPA model rules to section 5 of each of the three (3) CAIR trading rules.

*Comment:* The measurement unit used to describe nameplate capacity in the applicability section of each trading rule is "megawatt". IDEM should define "megawatts" so as to clarify that this unit is "megawatt electrical". (U.S. EPA)

*Response:* IDEM has revised all references to "megawatts" in Article 24 to "megawatt electrical."

*Comment:* The draft CAIR trading rules refer to, but do not define, "U.S. EPA". "U.S. EPA" should be defined to mirror the definition of "Administrator" in the U.S. EPA CAIR model trading rules. (U.S. EPA)

*Response:* The definition of "U.S. EPA" is included in [326 IAC 1](#) and does not need to be added to [326 IAC 24](#).

*Comment:* The definition at [326 IAC 24-1-2](#)(12) for "CAIR NO<sub>x</sub> allowance" refers to "sections 12(j) and (k) of the draft rule." There does not appear to be a section 12(k) in the draft rule. (U.S. EPA)

*Response:* The inclusion of section 12(k) is a typographical and the reference has been removed.

*Comment:* The definition at [326 IAC 24-1-2](#)(38) lists the control period "[F]or purposes of section 8(h) of this rule" as October through April. It is unclear if this is intended to mean October of a calendar year through April of the following calendar year, or if it is intended to mean January 1 through April 30 and October 1 through December 31 of the same calendar year. (NIS)

*Response:* It is intended to mean January 1 through April 30 and October 1 through December 31 of the same calendar year. IDEM has revised the definition of "control period" accordingly.

*Comment:* The language at [326 IAC 24-1-2](#)(69) should be modified as follows (additional text shown in bold): Compliance with any submission or service deadline shall be determined by the date of dispatch, transmission, or mailing and not the date of receipt **by IDEM or EPA**.

*Response:* IDEM agrees and has modified [326 IAC 24-1-2](#)(69) and the corresponding definition of "submit" or "serve" in the CAIR SO<sub>2</sub> trading rule and CAIR ozone season NO<sub>x</sub> trading rule to include the suggested language.

*Comment:* The draft CAIR trading rule replaces parentheses in the CAIR model trading rule with commas. Using commas in lieu of parentheses could alter the meaning of a sentence see, for example, the definition of "continuous emission monitor", should read:

"A nitrogen oxides emission rate (or NO<sub>x</sub> diluent) monitoring system, consisting of a NO<sub>x</sub> pollutant concentration monitor, a diluent gas (CO<sub>2</sub> or O<sub>2</sub>) monitor, and an automated..." (U.S. EPA)

*Response:* IDEM has reviewed the draft rule language and added parentheses where appropriate.

*Comment:* The word "or" should be added at the end of the paragraph in [326 IAC 24-1-3](#)(e)(6)(ii) for a retired unit exemption. (U.S. EPA)

*Response:* The suggested change was not made. The word "or" is not needed because the lead in line makes it clear that only one of the dates applies to the exemption.

*Comment:* The exemption provided in [326 IAC 24-1-3](#)(a)(1) is difficult to understand due to the phrasing used. One interpretation would be that the only provisions that would still apply are those of [326 IAC 24-1-3](#). However, the commenter interprets this to mean that the provisions of [326 IAC 24-1-3](#) remain applicable as well as sections 1, 2, 4(c)(4) through 4(c)(7), and sections 5, 6, and sections 8 through 10 of [326 IAC 24-1](#). Please confirm this interpretation. (NIS)

*Response:* IDEM interprets this provision to mean that a retired unit is subject to the provisions of [326 IAC 24-1-3](#) and sections 1, 2, 4(c)(4) through 4(c)(7), and sections 5, 6, and sections 8 through 10 of [326 IAC 24-1](#).

*Comment:* [326 IAC 24-1-4](#)(a)(1)(ii), [326 IAC 24-2-4](#)(a)(1)(ii), and [326 IAC 24-4-4](#)(a)(1)(ii) of the draft rule language requires a CAIR designated representative to submit any supplemental information that the department determines is necessary in order to review a CAIR permit application. IDEM should add language that requires the designated representative to submit this information "in a timely manner" to facilitate the information gathering process. (U.S. EPA)

*Response:* IDEM has revised the language in all three (3) trading rules as suggested.

*Comment:* The standard requirements in section 4 of each of trading rule follows closely with the standard requirements rule language of the U.S. EPA CAIR model rule. However, there are some textual differences between these two (2) rules. Therefore, should IDEM wish to utilize the model CAIR permit application being prepared by U.S. EPA, IDEM will need to modify the model permit application to include the standard requirements as written in the IDEM CAIR rule. (U.S. EPA)

*Response:* IDEM will review the model CAIR permit application when completed by U.S. EPA and modify if necessary.

*Comment:* The term "control period" is used and defined differently throughout Article 24. IDEM should clarify in [326 IAC 24-1-4\(c\)\(1\)](#) by including the regulatory citation for this term for this particular rule. Alternatively, the insertion of "NO<sub>x</sub>" ahead of "control period" would be helpful. (NIS)

*Response:* "Control period" is defined in Article 24-1. To maintain consistency with the federal rule, the regulatory citation for the definition was not added to [326 IAC 24-1-4\(c\)\(1\)](#).

*Comment:* Does the automatic incorporation in any CAIR permit of the source every allocation, transfer, or deduction of a CAIR NO<sub>x</sub> allowance to or from a CAIR NO<sub>x</sub> source's compliance account preclude the ability to retain or trade the CAIR NO<sub>x</sub> allowance if the NO<sub>x</sub> CAIR permit is invalidated, or otherwise limited ([326 IAC 24-1-4\(c\)\(7\)](#))? A similar concern exists for situations where the CAIR NO<sub>x</sub> permit is included in the source's Title V permit and the Title V permit is invalidated or otherwise limited due to some administrative action. It is inappropriate to have rule language that would place a restriction on the ability to utilize the CAIR NO<sub>x</sub> allowance due to any administrative action (permit delay, dispute, etc.) regarding the NO<sub>x</sub> CAIR permit or the unit's Title V permit. (NIS)

*Comment:* The commenter is unsure as to the purpose or the need of [326 IAC 24-2-7\(e\)](#), [326 IAC 24-2-7\(e\)](#), and [326 IAC 24-2-11\(g\)\(2\)](#) with respect to the inclusion of "...every allocation, transfer, or deduction of a CAIR NO<sub>x</sub> [or SO<sub>2</sub>] allowance to or from the compliance account of the CAIR NO<sub>x</sub> [or SO<sub>2</sub>] source covered by the permit" and IDEM should clarify and modify the language as appropriate. As currently worded, it appears that this is placing the accounting practices of the compliance account program into the permit which could be burdensome and conflict with management of ongoing account activities. (NIS)

*Response:* U.S. EPA has stated that the automatic incorporation in any CAIR permit of the source every allocation, transfer, or deduction of a CAIR NO<sub>x</sub> allowance to or from a CAIR NO<sub>x</sub> source's compliance account does not preclude the ability to retain or trade the CAIR NO<sub>x</sub> allowance if the NO<sub>x</sub> CAIR permit is invalidated, or otherwise limited. This is the same language that is included in the NO<sub>x</sub> SIP Call and IDEM is not aware of instances where this language has been problematic.

*Comment:* [326 IAC 24-1-4\(e\)\(2\)](#) contains a typographical error. The word "under" should precede "section 11 of this rule." (U.S. EPA)

*Response:* IDEM has revised the draft rule language as suggested.

*Comment:* In [326 IAC 24-1-6](#), [326 IAC 24-2-6](#), and [326 IAC 24-3-6](#) for CAIR designated representatives for NO<sub>x</sub> sources of subsections (g)(3)(B), (h)(4), and (h)(5) of each trading rule there are references that appear to allow multiple alternate CAIR designated representatives. The word "any" preceding the term "alternate CAIR designated representative" should be replaced with "the" to make the section agree with the limitation contained elsewhere in this rule allowing only a single alternate CAIR designated representative. (AEP)

*Response:* It is IDEM's understanding that "any" is not referring to multiple alternate CAIR designated representatives, but that revisions can be submitted by an alternate CAIR designated representative if one has been designated. In order to be consistent with the certification language provided by U.S. EPA in the model rules IDEM has not made the suggested amendment.

*Comment:* It may not be practical in all cases to comply with [326 IAC 24-2-3\(b\)\(2\)](#) where it requires the retention of relevant records at the facility. One particular retired facility is in the process of being demolished and there will be no possible secure location available at the site where records can be retained. Under the acid rain rules the requisite records are being retained at corporate headquarters where the designated and alternate designated representatives are located. This should be adequate for situations such as this and the records are readily available for inspection should IDEM or U.S. EPA desire to review them. (AEP)

*Comment:* The requirement in [326 IAC 24-1-3\(b\)\(3\)](#), [326 IAC 24-1-4\(e\)\(1\)](#), [326 IAC 24-2-3\(b\)\(2\)](#), and [326 IAC 24-3-3\(b\)\(3\)](#) to retain records for five (5) years on site at the source that contains the unit that is retired does not accommodate the situation where the entire source may be permanently retired and no longer manned, or the unit is demolished and the land sold. Due to the above concerns, we recommend IDEM add language to allow for retention of the required records at a central (corporate headquarters) location. (NIS)

*Response:* IDEM had included language in the NO<sub>x</sub> SIP Call rule to allow retention of records at a central location within Indiana and has revised the CAIR draft rule accordingly. U.S. EPA has indicated that the Indiana CAIR rule should not allow the retention of records at a central location, since there are already provisions in CAIR where sources can petition U.S. EPA for alternative requirements and this change would be inconsistent with the federal model rules. IDEM will discuss this amendment further with U.S. EPA.

*Comment:* The permit requirements in section 7 of each trading rule requires each CAIR source required to have a federally enforceable permit to include a CAIR permit in that federally enforceable permit. Sections 7(a)(1) and 7(a)(2) require that CAIR sources required to have a part 70 operating permit or a FESOP permit have a CAIR portion of that permit. Presumably, this means that these two (2) permit programs are the only permit programs that are federally enforceable. (U.S. EPA)

*Response:* This is correct.

*Comment:* As currently worded, the language of [326 IAC 24-1-7\(b\)](#), [326 IAC 24-2-7\(b\)](#), and [326 IAC 24-3-7\(b\)](#) appears more a statement of fact instead of a specification of requirements to be followed. For clarity we recommend the language be changed to more adequately convey that the specified subdivisions are



requirements applicable to the CAIR application submittal.(NIS)

*Response:* IDEM has revised these provisions as suggested.

*Comment:* The proposed requirement to submit a complete CAIR application package at least eighteen (18) months before the later of January 1, 2009, or the date on which the CAIR NO<sub>x</sub> unit commences operation seems excessively constraining, especially for units that may already be in existence<sup>x</sup> and benefit from a shorter application deadline to accommodate changing business situations ([326 IAC 24-1-7\(b\)\(1\)](#), [326 IAC 24-2-7\(b\)\(1\)](#), and [326 IAC 24-3-7\(b\)\(1\)](#)). IDEM should utilize the flexibility granted by the U.S. EPA in CAIR and reduce the eighteen (18) month period to a shorter period, such as nine (9) to twelve (12) months. (NIS)

*Response:* IDEM has revised these provisions to specify that applications should be submitted within nine (9) months similar to language in the NO<sub>x</sub> SIP Call rule.

*Comment:* In [326 IAC 24-1-8\(a\)](#),<sup>x</sup> remove reference to "tons of NO<sub>x</sub> emissions" and replace with "CAIR NO<sub>x</sub> allowances" where appropriate when referring to the Indiana budget (e.g., "The total number of ~~tons of NO<sub>x</sub>~~<sup>x</sup> emissions CAIR NO<sub>x</sub> allowances apportioned)...". U.S. EPA)

*Response:* IDEM has revised the draft rule as suggested.

*Comment:* In [326 IAC 24-1-8\(a\)\(1\)](#) and [326 IAC 24-3-8\(a\)\(1\)](#), the term "existing units" is used but not defined in the rule. It is unclear when a source is considered "existing" and when it is considered "new". The term should be defined. (U.S. EPA)

*Response:* IDEM has added language to specify that existing units are units with a baseline heat input.

*Comment:* In [326 IAC 24-1-8\(a\)\(1\)](#) through (3), the sum of the allowances available for each year from 2009 through 2014 the total is one hundred eight thousand nine hundred thirty-four (108,934), but the correct total in the CAIR model rule and in subdivision 8(a) is one hundred eight thousand nine hundred thirty-five (108,935). The sum of the allowances each year for the period 2015 and thereafter equals ninety thousand seven hundred eighty (90,780), but the correct annual total in the CAIR model rule and subdivision 8(a) is ninety thousand seven hundred seventy-nine (90,779). Modify the 2009 to 2014 allocations, so that the total annual allocations do not exceed the applicable state budget. (U.S. EPA)

*Response:* Due to rounding the set-aside amounts included in the draft rule were incorrect. Including changes that are being proposed for the amounts in the new source set-aside and the EE/RE set-aside the amounts for 2009 through 2014 are as follows: one hundred three thousand four hundred eighty-eight (103,488) tons for existing units, four thousand nine hundred two (4,902) for new units, and five hundred forty-five (545) for the EE/RE set-aside. Including changes that are being proposed for the amounts in the new source set-aside and the EE/RE set-aside the amounts for 2009 through 2014 are as follows: eighty-eight thousand fifty-five (88,055) tons for existing units, two thousand two hundred seventy (2,270) for new units, and four hundred fifty-four (454) for the EE/RE set-aside.

*Comment:* In [326 IAC 24-1-8\(b\)\(2\)](#) and [326 IAC 24-3-8\(b\)\(2\)](#), IDEM should change the date for submitting allocations for the second three (3)-year period from October 31, 2009 to October 31, 2008 in order that U.S. EPA will be able to record the allocations for 2012 at least three (3) years in advance. Submitting the allocations in October 2009 will mean that they will be recorded at the end of 2009, which is less than three (3) years before the beginning of the 2012 control period. Similarly, subsequent allocations should be submitted for the control periods "four (4), five (5) and six (6)" years after the year of the allocation rather than "three (3), four (4) and five (5)" in order to allow recording three years in advance. (U.S. EPA)

*Response:* IDEM is moving to a six (6) year allocation recorded six (6) years in advance and will include the suggested change in the new methodology.

*Comment:* In [326 IAC 24-1-8\(d\)](#) the word "unit" needs to be added following "CAIR NO<sub>x</sub>". (U.S. EPA)

*Response:* IDEM has revised the draft rule as suggested.

*Comment:* In [326 IAC 24-1-8\(g\)\(4\)\(B\)](#) the phrase "tons of" needs to be added between "number of" and "emissions reductions." (U.S. EPA)

*Response:* IDEM has revised the draft rule as suggested.

*Comment:* In [326 IAC 24-1-9\(j\)](#) the phrase "compliance with a unit's allocation" should be changed to "compliance with a source's emissions limitation". In the CAIR program, the allowances are deducted from a source's account (not a unit account) to comply with an emissions limitation, not an allocation. (U.S. EPA)

*Response:* IDEM has revised the draft rule as suggested.

*Comment:* The term "add-on NO<sub>x</sub> emission controls" in [326 IAC 24-1-11\(c\)\(3\)](#) is not defined. IDEM should clarify or acknowledge this to mean an end of pipe device such as a selective non-catalytic reduction (SNCR) or selective catalytic reduction (SCR). (NIS)

*Response:* IDEM has asked U.S. EPA for their interpretation of this provision, but it is IDEM's understanding that "add-on NO<sub>x</sub> emission control" are end of pipe devices as the commenter has noted. The definition for "add-on control"<sup>x</sup> in 40 CFR 72.2 is a pollution reduction control technology that operates independent of the combustion process.

*Comment:* The time periods specified in [326 IAC 24-1-11\(c\)\(3\)\(A\)](#), [326 IAC 24-1-11\(c\)\(3\)\(B\)](#), [326 IAC 24-2-10\(c\)\(3\)\(A\)](#), and [326 IAC 24-2-10\(c\)\(3\)\(B\)](#) should also be provided for the situation where a monitor needs to be relocated or a new monitor needs to be installed for reasons other than those currently specified. (NIS)

*Response:* U.S. EPA has indicated that they would not approve modifications to the monitoring provisions of the CAIR trading rules. CAIR designated representatives can use the petition process in [326 IAC 24-1-12\(o\)](#), and the respective provisions in the other two (2) trading rules, to request U.S. EPA approval to apply alternative monitoring requirements.

*Comment:* The commenter questions the need to resubmit an application to U.S. EPA for approval under this program for an action that has already been approved for similar programs such as the NO<sub>x</sub> SIP Call or the acid rain program and requests this redundant and unnecessary requirement be deleted ([326 IAC 24-1-11\(g\)](#) and [326 IAC 24-2-10\(g\)](#)). (NIS)

*Response:* U.S. EPA has indicated that they would not approve modifications to the monitoring provisions of the CAIR trading rules. U.S. EPA has stated that since these applications can be easily submitted on-line and that there may be NO<sub>x</sub> emissions rate issues that they need to re-evaluate since 40 CFR 75, Subpart H was not in place at the time of the original applications submittal that it is appropriate to require these applications to be resubmitted under CAIR. For the acid rain program provisions U.S. EPA deleted [326 IAC 24-2-10\(g\)](#) in amendments to the model SO<sub>2</sub> trading rule in the April 28, 2006 Federal Register (71 FR 25328). IDEM has deleted [326 IAC 24-2-10\(g\)](#) in the draft CAIR rule as well.

*Comment:* The language "...for purposes of applying for such sections 1 through 11 of this rule" in [326 IAC 24-1-12\(b\)](#) and "...for purposes of applying for such sections 1 through 10 of this rule" in [326 IAC 24-2-11\(b\)](#) is confusing and should be clarified or corrected. (NIS)

*Response:* IDEM has clarified this language to more closely align with language included in the model trading rule.

*Comment:* Insert "NO " between "its" and "emissions" in [326 IAC 24-1-12\(e\)\(2\)\(C\)](#) to clarify and limit the applicability to a source that vents all its NO<sub>x</sub> emissions to a stack. (NIS)

*Response:* IDEM has revised the draft rule as suggested.

*Comment:* In [326 IAC 24-2-2\(4\)](#) the definition for "Allocate or allocation" references section 12(j) of the draft CAIR SO<sub>2</sub> trading rule. This rule does not contain a section 12 and should reference section 11 (CAIR SO<sub>2</sub> opt-in units). (U.S. EPA)

*Response:* IDEM has revised the draft rule as suggested.

*Comment:* In [326 IAC 24-2-2\(24\)](#) the definition for "CAIR SO<sub>2</sub> emissions limitation" references section 11 (j) and (k). It appears that this reference should be sections 8(j) and (k) of the draft rule SO<sub>2</sub> trading rule. (U.S. EPA)

*Response:* IDEM has revised the draft rule as suggested.

*Comment:* In [326 IAC 24-2-2\(37\)](#) the definition for "continuous emission monitoring system" should include a reference to a "permanent record of sulfur dioxide emissions" rather than to a "permanent record of nitrogen oxides emissions." [326 IAC 24-2-2\(37\)\(C\)](#) refers to a requirement to have a nitrogen oxides monitoring system. This is not relevant to SO<sub>2</sub> emissions monitoring and is not required under section 10 of this rule. (U.S. EPA) (NIS)

*Response:* [326 IAC 24-2-2\(37\)](#) has been corrected to remove references to nitrogen oxide emissions and [326 IAC 24-2-2\(37\)\(C\)](#) has been deleted since it was incorrectly included in the this definition.

*Comment:* IDEM should add a provision to the retired unit exemption section of the CAIR SO<sub>2</sub> trading rule that any unit that has been granted retired status under the acid rain rules shall automatically be granted this status under the CAIR rule. The commenter is aware of at least one (1) unit that operated after November 15, 1990, but retired prior to the requirement to file for a Title V permit on the promulgation of the NO<sub>x</sub> SIP Call. That unit was not included in the NO<sub>x</sub> SIP Call for obvious reasons and should not be included in this rule except as necessary to account for the acid rain allowances allocated to the unit. IDEM should add the following language to this rule to accomplish this:

(c) Any unit holding a retired unit exemption under the acid rain rules issued in response to Title IV of the Clean Air Amendments of 1990 shall be considered in compliance with the provisions of this section and shall comply with the requirements of the U.S. EPA acid rain program as they pertain to retired units. Compliance with the retired unit provisions of the acid rain program shall constitute compliance with this rule. (AEP)

*Response:* U.S. EPA has indicated that they would not approve a modification to the retired unit exemption rule language. A designated representative needs to submit a statement indicating that they have a retired unit and that the unit will comply with the CAIR retired unit compliance requirements, which are slightly different than the acid rain requirements.

*Comment:* [326 IAC 24-2-4\(c\)\(1\)](#) requires the owners and operators to hold, as of the allowance transfer deadline, SO<sub>2</sub> allowances in an amount to be not less than the tons of SO<sub>2</sub> emissions for the control period. In order to be consistent with the definition of CAIR SO<sub>2</sub> emission limitation, [326 IAC 24-2-4\(c\)\(1\)](#) should include language that requires a "tonnage equivalent in CAIR SO<sub>2</sub> allowances" be available in the source's compliance account as of the allowance transfer deadline. To be complete, [326 IAC 24-2-4\(c\)\(1\)](#) should reference 8(j) and 9(k), not just a reference to 8(j). (U.S. EPA)

*Response:* IDEM has revised the draft rule as suggested.

*Comment:* [326 IAC 24-2-4\(c\)\(2\)](#) should refer to sections 10(c)(1), 10(c)(2) or 10(c)(5) (relating to emission monitoring), rather than sections 11(c)(1), 11(c)(2) or 11(c)(5) (relating to opt-in units). (U.S. EPA)



*Response:* IDEM has revised the draft rule as suggested.

*Comment:* [326 IAC 24-2-10](#)(b) refers to systems required to monitor "SO<sub>2</sub> emission rate". 40 CFR 96.270(a)(1) does not include such a reference. The reference should be removed in the IDEM SO<sub>2</sub> trading rule. The reference to "SO<sub>2</sub> emission rate" in 40 CFR 96.270(c)(1) is erroneous and U.S. EPA intends to remove it. (U.S. EPA)

*Response:* IDEM has revised the draft rule as suggested.

*Comment:* The term "add-on SO<sub>2</sub> emission controls" in [326 IAC 24-2-10](#)(c)(3) is not defined. IDEM should clarify or acknowledge this to mean an end of pipe device such as a flue gas desulfurization (FGD) system. (NIS)

*Response:* IDEM has asked U.S. EPA for their interpretation of this provision, but it is IDEM's understanding that "add-on SO<sub>2</sub> emission control" is an end of pipe devices as the commenter has noted.

*Comment:* In [326 IAC 24-2-10](#)(g) IDEM replaced the phrase "for apportioning SO<sub>2</sub> mass emissions" with "or apportioning SO<sub>2</sub> emission rate". This inappropriately changes the meaning of 40 CFR 96.271(c). (U.S. EPA)

*Response:* U.S. EPA deleted 40 CFR 96.271(c) in amendments to the model trading rules finalized on April 28, 2006 (71 FR 25328) therefore [326 IAC 24-2-10](#)(g) is no longer needed and has been deleted.

*Comment:* The term NO<sub>x</sub> ozone season is used throughout [326 IAC 24-3](#), however it is not defined. Instead, the term "control period" is defined in [326 IAC 24-3-2](#)(38). Similarly, control period is defined in the definition section of the annual NO<sub>x</sub> control rule ([326 IAC 24-1-2](#)(38)) and used throughout that rule. IDEM should use consistent terminology where possible and utilize the term ozone control period instead of ozone season to provide clarity to the specific emission control program. (NIS)

*Response:* U.S. EPA has included definitions for CAIR NO<sub>x</sub> ozone season allowance, NO<sub>x</sub> ozone season unit, etc., in the ozone season trading rule. IDEM has maintained consistency with the federal model rules as much as possible. Each trading rule uses the term "control period" with the appropriate timeframe defined in each rule.

*Comment:* In [326 IAC 24-3-2](#)(6), the definition for "alternate CAIR designated representative" refers to "CAIR SO<sub>2</sub> ozone season trading program", but there is no ozone season program for an SO<sub>2</sub> only an annual program. (U.S. EPA)

*Response:* IDEM has deleted the words "ozone season."

*Comment:* Insert "SO<sub>2</sub>" between "its" and "emissions" in [326 IAC 24-2-11](#)(a)(5) and [326 IAC 24-2-11](#)(e)(2)(D) to clarify and limit the applicability to a source that vents all its SO<sub>2</sub> emissions to a stack. (NIS)

*Response:* IDEM has revised the draft rule as suggested.

*Comment:* In [326 IAC 24-3-2](#)(13), the definition of "CAIR NO<sub>x</sub> ozone season allowance" should reference "51.123(bb) (iii) or (iv)," rather than "(bb)(2)(ii) or (iv)". (U.S. EPA)

*Comment:* In [326 IAC 24-3-2](#)(13) there appears to be a typographical error in the second to last line of this subdivision that references 40 CFR 121(p). The correct reference may be 40 CFR 51.121(p). (NIS)

*Response:* IDEM has revised the draft rule as suggested.

*Comment:* The title in [326 IAC 24-3-8](#) should read: "CAIR NO<sub>x</sub> **Ozone Season** Allowance Allocation". (U.S. EPA)

*Response:* IDEM has revised the draft rule as suggested.

*Comment:* In [326 IAC 24-3-8](#)(a), the total number of CAIR NO<sub>x</sub> ozone season allowances for control period 2009-2014 is misstated. It should be fifty-five thousand seven hundred twenty-nine (55,729). It seems that the ninety-eight (98) allowances for the new unit set-aside for "large affected units" was excluded. This is the same issue for 2015 and beyond where the total should be forty-nine thousand fifty (49,050). (U.S. EPA)

*Response:* Correct, IDEM mistakenly excluded the 98 allowances for the new unit set-aside for "large affected units."

*Comment:* In [326 IAC 24-3-8](#)(b)(1)(D), replace "on the effective date" with "as of the effective date". (U.S. EPA)

*Response:* IDEM has revised the draft rule as suggested.

*Comment:* In [326 IAC 24-3-8](#)(d)(1) the word "affection" should be "affected." (PU)

*Response:* IDEM has revised the draft rule as suggested.

*Comment:* IDEM has created three (3) separate rules to cover the summertime NO<sub>x</sub>, annual NO<sub>x</sub>, and SO<sub>2</sub> programs, which is a perfectly reasonable approach. Each rule has its own definition section. There is significant overlap in the terms that are defined. The rules are therefore quite repetitive, but the reader feels compelled to read and compare them in case there are slight, but deliberate and meaningful differences. Alternatively, some of the definitions do differ slightly from one rule to the other, and it is not clear whether that is intentional. Specific definitions that appear to differ between the NO<sub>x</sub> and SO<sub>2</sub> rules are [326 IAC 24-1-2](#)(17), 24-1-2(20), 24-1-2(23), 24-1-2(26), 24-1-2(30), 24-1-2(41), and their counterparts. The commenter suggests that IDEM create a single definition rule that applies to all three (3) rules (e.g. create [326 IAC 24-4](#) for definitions that apply in [326 IAC 24-1](#), 24-2, and 24-3) or put all of the definitions that apply to all three (3) rules in [326 IAC 24-1](#) and only include definitions are beyond that common list in [326 IAC 24-2](#) and 24-3). (IKE)

*Comment:* The definition sections in each of the three (3) rules seem to be identical, but there are noticeable typographic differences between them, that appear to be unintended. Since it appears that these sections are

supposed to be identical, it may be more efficient to just create a single definitions section for all of [326 IAC 24](#) that would apply to all parts of [326 IAC 24](#). This would also serve to reduce the chances of a typographic error creeping into any one of the sections that would cause unknown problems for the rule in the future. (AEP)

*Response:* Some definitions are defined the same in each rule and IDEM will consider, if resources permit, combining the definitions sections at final adoption.

#### **Non-Electric Generating Unit (non-EGU) Allocations (post-2010)**

*Comment:* Owners and operators of large affected units under the NO<sub>x</sub> SIP Call trading program met to develop a proposal for allocating the ozone season NO<sub>x</sub> allowance budget for large affected units under the new CAIR rule. The stakeholder workgroup was composed of the following owner/operators of large affected units: Purdue University; Citizens Gas and Coke Utility; ALCOA; Mittal Steel (Ispat Inland Units); U.S. Steel Gary Works; BP; and Portside Energy. In general, the proposal reflects the outcome of this process and have been developed in consultation with each of the entities listed. The working group established three (3) primary goals to guide the development of a proposed NO<sub>x</sub> allowance allocation system for large affected units:

- Ensure that adequate NO<sub>x</sub> allowances are available for new large affected units so they are not discouraged from locating in Indiana;
- Establish a system that is easily administered by IDEM and the participating entities that will not require a new rulemaking each time the allocation is adjusted to accommodate a new or expanding unit; and
- Attempt to address the shortfall in the original NO<sub>x</sub> SIP Call allocation for Purdue University.

The commenter encourages the IDEM to consider adopting this NO<sub>x</sub> allowance allocation methodology for large affected units into the CAIR NO<sub>x</sub> ozone season trading program rule proposed at [326 IAC 24-3-8](#) with the understanding that individual companies will supplement the proposal with their comments.

The commenter supports IDEM's determination that the ozone season NO<sub>x</sub> allowance budget should remain the same as it is in the current NO<sub>x</sub> SIP Call rule. The commenter also supports the continued allocation of ninety-eight (98) tons of NO<sub>x</sub> allowances (each ozone control period) into a new unit set-aside account for large affected units that commence operation after January 1, 2001, and one thousand one hundred fifteen (1,115) tons of NO<sub>x</sub> allowances into the EE/RE set-aside. However, to accomplish the first goal set forth above, the commenter proposes that unused ozone season NO<sub>x</sub> allowances in the EE/RE set-aside, following allocation of allowances to all proper EE/RE project applicants, be made available to cover any deficit in the new source set-aside for large affected units. The second goal, administrative ease, requires a method for allocating NO<sub>x</sub> allowances among the large affected units that would not require a new state rulemaking each time a new source was added or the allocation otherwise needed to be revised. The following proposal represents one possible resolution of the divergent interests within the large affected unit working group on the subject of allowance allocation. The proposal establishes a three (3)-step allowance allocation process for large affected units.

- Step 1: Fifty percent (50%) of the NO<sub>x</sub> that would be emitted in a control period if the unit operated at maximum capacity and emitted at its target NO<sub>x</sub> emission rate.
- Step 2: Add to the tons of NO<sub>x</sub> from Step 1, the tons of NO<sub>x</sub> emitted in a control period when the unit is operating at its highest actual operating rate and emitting NO<sub>x</sub> at its target NO<sub>x</sub> emission rate.
- Step 3: Take the sum of the first two (2) steps for all large affected units and adjust them proportionately so that the total number of NO<sub>x</sub> allowances to be allocated does not exceed the budget.

This approach strikes a balance between a fixed allocation based on design capacity and an adjustable allocation based on utilization. A fixed allocation, like the one used in the Title IV acid rain program, has the advantage of providing greater long-term certainty for the market participants, and it allows companies to make rational economic decisions about shutting down less efficient units and converting to lower NO<sub>x</sub> emitting options without losing valuable allowances. On the other hand, an allocation system based on utilization, like the system in the CAIR proposed for EGUs, allows for the redistribution of allowances to new and expanding units that may otherwise need to go to the market and purchase NO<sub>x</sub> allowances to cover their NO<sub>x</sub> emissions. The proposal includes three (3) steps in the allocation methodology:

- Step One uses the design heat input capacity in MMBtu/hr times the total number of hours in an ozone season control period (three thousand six hundred seventy-two (3,672) hours). This maximum control period heat input is multiplied by the target NO<sub>x</sub> emission rate. The target NO<sub>x</sub> emission rate is the higher of seventeen hundredths (0.17) lb/MMBtu or a sixty percent (60%) reduction from the 1999 baseline NO<sub>x</sub> emission rate for the unit. New units that are required by their new source permit to meet a lower NO<sub>x</sub> emission rate will use their permitted NO<sub>x</sub> rate as the target NO<sub>x</sub> emission rate for this calculation.
- Step Two starts with the highest actual heat input rate established for a control period within the ten (10) years preceding the year of the allocation request. For the first allocation adjustment submission in October 2007, the ten year period will be 1997-2006. The commenter recognizes that there are alternative proposals that will be provided in comments to accomplish the allocation under Step Two, and is willing to consider the impacts of those proposals as this process moves forward. The submitted heat input rate must use the best available data certified by a responsible official. When available, heat input data generated by systems operated in compliance with the requirements of 40 CFR 75 will be used. When Part 75 data is not available, the owner/operator may submit a calculated heat input rate using the best available data provided that the

submission is certified in accordance with Part 70 as to truth, accuracy and completeness by the Title V responsible official. The highest control period heat input rate is then multiplied by one hundred twenty percent (120%) to account for the variability of load demands on large affected units. This control period actual heat input is then multiplied by the target NO<sub>x</sub> rate discussed previously.

- In Step Three the NO<sub>x</sub> allocations from Step One and Two are summed, and in Step Three the amount allocated is adjusted to match the NO<sub>x</sub> budget for large affected units. This is accomplished by multiplying the sum of Step One and Two for each unit by the fraction generated when the NO<sub>x</sub> budget is divided by the total number of tons of NO<sub>x</sub> from Step One and Two for all large affected units.

Large affected units will benefit from a longer period of time between allocation adjustments. Therefore, the commenter proposes that the amount allocated to each large affected unit will be fixed for an entire ten (10)-year business cycle. Thus, the heat input information provided in 2007 will set the allowance allocation for large affected units for 2010 through 2019. The next call for heat input data will occur in 2017 and it will be used to generate allowance allocations for 2020-2029. Longer term allocations provide the market with greater certainty and enable long-term contracting for the transfer of excess allowances with lower administrative costs. The only real downside to a ten (10)-year allocation period is the burden that this could place on new sources that may need to rely on the new source set aside (and the excess EE/RE set aside allowances) for a longer period of time. Indiana has not had any requests for new source set asides from a large affected unit since the NO<sub>x</sub> SIP Call program began. (CTE)

*Comment:* The commenter supports the non-EGU proposal laid out in the previous comment by CTE, but has two (2) notable differences from the larger group. The commenter recommends that IDEM use a five (5) year look back period for establishing the heat input baseline for non-EGU NO<sub>x</sub> allocations. A five (5) year look back is important (as opposed to a three (3) or four (4) year) for the first allocation cycle of the CAIR NO<sub>x</sub> ozone season program because many of the large affected units will be in the throes of boiler outages for equipment installation to address the national emission standard for hazardous air pollutants (NESHAP) for industrial, commercial, and institutional boiler and process heaters compliance deadline of September 2007. As a result, heat input for the 2006 and 2007 ozone seasons may be atypical at these facilities. A five (5) year look back will not underestimate the need for allowances when the industry experiences the upswing of the business cycle. The first step of the proposal (allocating at fifty percent (50%) of maximum design heat input) allows the distribution of at least some allowances for units that have experienced lower-than-normal heat input during the five (5) year look back period, offering a backstop for facilities faced with quantum swings in utilization due to their business cycle. Second, Part 75 data represents the highest quality data available to conduct the look back and only Part 75 heat input data should be used to allocated emission allowances within the trading program. (PU) (AWO)

*Comment:* The proposal fails to meet the first priority IDEM set forth, to more appropriately integrate the units operated by Purdue University. A five (5)-year allocation period will allow for a more seamless integration of new sources from the new source set-aside pool to the NO<sub>x</sub> allowance budget. Accumulating ten (10) years of new sources and integrating them all at once will create a great deal of uncertainty within those sources already in the NO<sub>x</sub> allowance budget as to the number of allowances they can expect to receive with which to make their business plans. (AWO)

*Comment:* The commenter supports the non-EGU proposal laid out in the previous comment by CTE, with the following exception. The first allocation cycle (for 2010-2019) under the CAIR should use a five (5) year look back. For subsequent allocation cycles, a ten (10) year look back is appropriate. The extended, ten (10)-year allocation period provides greater certainty to the market and for business planning purposes. (BP)

*Comment:* The commenter agrees with the basic tenets of the non-EGU proposal laid out in the previous comment by CTE. The commenter advocates a ten (10) year baseline period for finding the highest actual heat input in a business cycle (consistent with the baseline period adopted for new source review). A ten (10) year look back is appropriate and necessary for the large affected units because business cycles last ten (10) years or more in many of the industries represented by the large affected units. Allocating allowances based on three (3) years or five (5) years of heat input during the downward swing of a ten (10) year business cycle will grossly underestimate the need for allowances when the industry experiences the upswing of the business cycle. This would force these companies to purchase NO<sub>x</sub> allowances on the market as they emerge from the downturn creating additional cost that could defer re-investment and delay economic recovery in these cyclical industries. U.S. EPA used a ten (10) year look back when it revised the new source review rules so that businesses in cyclical industries are not disadvantaged (40 CFR 52.21(b)(48)(ii)). Prior to this relief, the steel industry and other businesses were limited to a five (5) year window to establish baseline actual emissions. When the five (5) window occurred at the bottom of a business cycle, companies had a depressed baseline that made them disproportionately impacted by new source review permitting. Reaching back five (5) years is insufficient to establish an actual heat input baseline in an industry with a ten (10) year business cycle. This is particularly important to the twenty (20) large affected units in the steel industry, which have historically experienced long business cycles. With respect to heat input data, owners and operators should be able to use the best available data certified by a responsible official. The commenter also supports a ten (10)-year allocation period. This balances the benefits of a fixed allocation with the need for periodic adjustments. The only real downside to a

longer allocation period is the burden that this could place on new sources that may need to rely on the new source set aside (and the excess EE/RE set aside allowances) for a longer time before being integrated into the large affected unit budget. The need is purely theoretical because Indiana has not had a single new large affected unit apply for new source set asides since the NO<sub>x</sub> SIP Call program began. This is unlikely to change because most new installations nationally are using more efficient smaller boilers that are below the two hundred fifty (250) MMBtu/hr size threshold for large affected units. If new units can also go to the EE/RE set aside there should be sufficient allowances to meet projected demand for new unit allowances. (MS)

*Comment:* The commenter entered into the large affected unit discussions committed to supporting the fixed allocation table included in the second notice at [326 IAC 24-3-8\(d\)\(2\)](#) and currently used in the NO<sub>x</sub> SIP Call rule. After participation in the process to develop a proposal that all large affected units could support, a compromise position was developed that distributes allowances, in part, based on actual heat input. While the commenter supports this compromise, the commenter supports the fixed allocation table included in the second notice and continued allocation of allowances to units that have been idled or curtailed, including the 4AC station at Mittal Steel. Removing allowances from curtailed and idled units discourages reuse and favors building entirely new units that could be eligible for new source set-asides. Mittal Steel is considering restarting the No. 4AC station to generate steam with low-NO<sub>x</sub> blast furnace gas that is currently being flared. The true benefit of a trading program comes from the market demand generated by those emitting more NO<sub>x</sub> than they have allowances to cover and the supply generated by those who have more allowances than needed. A fixed allocation based on a historical baseline emission rate is the most effective allocation system for the market. Nonetheless, the commenter understands the benefits of periodic adjustments to allow new sources to be moved from the new source set-aside into the primary large affected unit allowance allocation system and is willing to support the proposal developed by the large affected units workgroup. The commenter also discourages IDEM from reducing allowances from existing sources based on emission limits imposed by other programs that can generate enforceable NO<sub>x</sub> limits below the target emission rate used to establish the NO<sub>x</sub> allowance allocation. (MS)

*Response:* U.S. EPA is allowing states that had included non-EGUs in the NO<sub>x</sub> SIP Call to include those units in the NO<sub>x</sub> ozone season trading program under CAIR. Because IDEM used a fixed allocation for the NO<sub>x</sub> SIP Call, a decision had to be made to continue with the fixed allocation or develop a different allowance allocation methodology.

IDEM has reviewed the methodology proposed by the workgroup of non-EGUs. The methodology proposed by the large affected unit workgroup incorporates the unit's design heat input, the highest actual heat input adjusted by one hundred twenty percent (120%) and a target emission rate that would relate to seventeen hundredths (0.17) lb/MMBtu or a sixty percent (60%) reduction. The workgroup was able to reach a consensus on the methodology, but was not able to reach consensus on the baseline years that would be used to determine the actual heat input or the length of time that an allocation would be made. Some commenters proposed to use a five (5) year baseline and a five (5) year allocation. Their reasoning was that using a shorter baseline would use the most recent data and include Part 75 monitoring data under the NO<sub>x</sub> SIP Call. They also made the point that using the maximum design heat input and adjusting the actual heat input by one hundred twenty percent (120%) would address any years that had low operating data and a ten (10) year allocation would negatively impact new sources. Another group proposed a ten (10) year baseline and a ten (10) year allocation. This group pointed to the normal ten (10) year business cycle for the type of companies with the large boilers and the certainty of a ten (10) year allocation. They did not believe that a ten (10) year allocation would adversely affect new units due to the fact that no new units have been constructed since the NO<sub>x</sub> SIP Call trading rule went into effect. A third option was to use a ten (10) year allocation, but the initial allocation would be based on a five (5) year baseline. The rationale for the shorter initial baseline is to try and include the most recent, quality-assured data.

IDEM reviewed what has been proposed for the EGUs to determine if the allocation methodology would provide some guidance in resolving the different positions. In the EGU allocation methodology, the allowances are allocated for an initial five (5) year period to reflect Phase I reductions and then a six (6) year allocation starting in 2015 and beyond. Except for the initial allocation, the allocations would be made six (6) years in advance. All allocations would be based on the average of the three (3) highest years over an eight (8) year period.

IDEM is proposing to use the EGU allocation model for non-EGUs with some alterations. IDEM proposes that the initial allocation be for five (5) years (2010-2014) using the previous six (6) years of heat input data (2000-2005). Subsequent allocations will be done on a six (6) year cycle beginning in 2008 and will use an eight (8) year baseline. This will put the non-EGU allocations on the same schedule as the EGU allocations. IDEM is proposing to use the six (6) year baseline for the initial allocation because this will allow the use of the most recent and reliable heat input data in the methodology developed by the non-EGUs. This will reflect the true operating status of the various units, while still providing allowances for those units that have not operated for a period of time. It should also be noted that while IDEM is proposing to allow the EGUs a longer initial baseline, the EGU allocation methodology uses an average of the three (3) highest years (as opposed to one hundred twenty percent (120%) of the highest year) and many EGUs were installing control equipment in the 2000-2005 timeframe. Using a shorter timeframe for the EGUs would negatively impact sources that were shutdown to install controls to comply with the NO<sub>x</sub> SIP Call and this is not the case with the non-EGUs. The proposal provides some



benefit to all parties. For those that proposed a five (5) year allocation using five (5) years of heat input, the six (6) year allocation is marginally longer than five (5) years. And while the eight (8) year baseline is longer, provisions can be included into the rule to allow new units to be incorporated into the trading program more quickly. For those that advocated the ten (10) year/ten (10) year option, the eight (8) year is closer to ten (10) years than five (5) years. And while this time period does not exactly match the business cycle, the provisions of the methodology that uses the maximum design heat input and increasing the highest actual heat input that occurred over eight (8) years should address any periods of low operations. As far as certainty, using a six (6) year allocation, six (6) years in advance will allow a company to know their share of allowances for a time six (6) to twelve (12) years in the future. This seems to be a reasonable compromise, providing certainty for the amount of allowances for three (3) to thirteen (13) years in the future.

IDEM believes the proposed allocation methodology for the initial allocation for years 2010-2014 using the maximum heat input data from 2000-2005 addresses the commenters concern about boiler outages for complying with the NESHAP and using years for heat input where high quality Part 75 data is available.

In addition to determining the allocation methodology and timing, the EE/RE and new unit set-asides were reviewed to determine if any adjustments were necessary. The non-EGUs had proposed that the EE/RE and new unit set-asides should remain at one thousand one hundred fifteen (1,115) tons and ninety-eight (98) tons, respectively, but that provisions should be included to allow for the use of unallocated allowances from the EE/RE set-aside, if the new unit set-aside is over subscribed. IDEM is proposing to expand this concept of using unallocated allowances to address oversubscription. Provisions have been included to allow the use of the other set-asides as well when one is oversubscribed and the other is undersubscribed. IDEM will then be able to shift allowances to where the need is the greatest. Unallocated allowances will be redistributed to existing non-EGUs, except that fifty percent (50%) of unallocated allowances will go to a grant fund for smaller EE/RE projects.

Currently, the overall non-EGU budget is nine thousand seven hundred seventy-seven (9,777) tons per year. US Steel has proposed to move back to [326 IAC 10-3](#). Although this change has been made to the draft rule language for preliminary adoption, IDEM is in discussions with U.S. EPA about the approvability of such a change. IDEM has removed their share of the budget, seven hundred eighty-six (786) allowances, resulting in a new non-EGU budget of eight thousand nine hundred ninety-one (8,991) tons. IDEM is proposing that the one thousand two hundred thirteen (1,213) tons currently in the EE/RE and new unit set-asides be redistributed as follows: five hundred (500) EE/RE allowances; four hundred (400) new unit allowances; and a new hardship set-aside of one hundred fifty (150) allowances. IDEM believes that this distribution and the provision to allow shifting of allowances will more accurately reflect current and future needs. Commenters noted that there has not been a need for a new unit non-EGU allowances, but discussions with Purdue University indicate that boiler replacements will be completed in the near future and additional allowances will be needed for these units, as well as any other new non-EGUs. Also, experience has shown that there may be unanticipated problems with allowance allocations, so IDEM believes that it is appropriate to provide a small portion of allowances for a hardship set-aside to address those situations in the future.

## SUMMARY/RESPONSE TO COMMENTS RECEIVED AT THE FIRST PUBLIC HEARING

On June 7, 2006, the air pollution control board (board) conducted the first public hearing/board meeting concerning the development of amendments to [326 IAC 10-3](#) and [326 IAC 10-4](#) and new rules [326 IAC 24-1](#), [326 IAC 24-2](#), and [326 IAC 24-3](#). Comments were made by the following parties:

Indiana Energy Association (IEA)  
Citizens Thermal Energy (CTE)  
Indiana-Kentucky Electric (IKEC)  
Hoosier Energy (HE)  
American Electric Power (AEP)  
Duke Energy (DUKE)  
Improving Kids' Environment (IKE)  
Hoosier Environmental Council (HEC)

Following is a summary of the comments received and IDEM's responses thereto:

*Comment:* The Indiana Energy Association's (IEA) membership is made up of Indiana's fourteen (14) investor owned gas and electric utilities and one (1) public charitable trust gas utility. Comments as made on behalf of the IEA membership and three (3) non-member participants (Dominion State Line Energy, Indiana Kentucky Electric Corporation and Hoosier Energy REC, Inc.) of the Indiana Utility Group (IUG). The IUG has been involved in the IDEM Utility Rules Workgroup and supports the draft rule for the following reasons:

- makes substantial environmental improvements;
- mirrors the federal rule;
- balances the costs to utility customers and shareholders with environmental improvement;
- provides regulatory certainty;
- will allow for continued reliable electric generation by, in part, providing sufficient time for installing new controls.



Whether considering IDEM's estimates on cost of implementation of this rule or the estimates produced by IUG, they are substantial. The costs of complying with the Clean Air Mercury rule will add to this compliance cost and additional charges to utility customers as well. A hidden cost is the substantial amount of power required to operate these controls. Industry estimates are that to operate an individual scrubber for the required SO<sub>2</sub> reductions requires approximately two percent (2 %) of the total megawatt capacity of the plant. The projected thirteen (13) (IUG estimate) to seventeen (17) (IDEM estimate) scrubbers to be installed provides for a considerable loss of supply. (IEA)

*Response:* IDEM appreciates the support and will continue to work with the affected parties to address any remaining issues by final adoption.

*Comment:* The commenter supports the allocation methodology provided for large affected units (non-EGUs) in the draft rule for preliminary adoption. The allocation methodology will not penalize the owners or operators who experience fluctuations in operations due to weather or economic influences and provides a mechanism to move new units into the regular existing source allocation pool which did not exist in the NO<sub>x</sub> SIP Call rule. An energy efficiency and renewable energy (EE/RE) set-aside that is connected with the new unit side aside is important. This provides further assurance that allowances will be available for projects at existing facilities. The commenter also supports the inclusion of an opt-in provision for the annual trading program, and endorses the comments submitted by IEA. (CTE)

*Response:* IDEM appreciates the support.

*Comment:* Indiana-Kentucky Electric Corporation (IKEC) operates the Clifty Creek Station located in Madison, Indiana. The Clifty Creek Station is a six (6) unit one thousand three hundred four (1,304) megawatt coal-fired electric generating station. IKEC is not a public utility and does not directly serve any Indiana customers. However, IKEC is owned by eight (8) different public utility companies that receive one hundred percent (100 %) of the electric power generated at this station, and three (3) of these companies do directly serve Indiana customers. In addition to the comments offered by IEA, the commenter provides some additional comments on this rulemaking. First, the utilities rules workgroup provided a positive forum for addressing issues with the CAIR rulemaking. Second, IDEM took the correct approach in following the federal cap and trade program for CAIR and IDEM should take the same approach in the upcoming state rule implement the federal Clean Air Mercury Rule. Third, IDEM has taken the correct approach to the changes that were made to the annual and ozone season control period NO<sub>x</sub> allocations for electric utilities. Finally, the approach IDEM included in the draft rule for electric utilities to earn early NO<sub>x</sub> reduction credits during 2007 and 2008 is an important improvement over the federal rule because it provides the needed certainty to encourage early NO<sub>x</sub> reductions outside the ozone control period. Reductions needed to comply with the federal acid rain program and the Indiana NO<sub>x</sub> SIP Call rule were achieved by switching from eastern high-sulfur bituminous coal to a blend of predominantly western low-sulfur subbituminous coal in 1994, the addition of overfire air systems on all six (6) units in 1998 and 1999, and the addition of selective catalytic (SCR) on five (5) units in 2002 and 2003. To comply with the proposed Indiana CAIR, IKEC plans to install flue gas desulfurization (FGD)/scrubbers on all six (6) units at Clifty Creek by 2010. (IKEC)

*Response:* IDEM appreciates the support.

*Comment:* Hoosier Energy operates two (2) coal-fired power plants with combined generating capacity of one thousand two hundred sixty-six (1,266) megawatts. In addition Hoosier Energy operates two (2) simple cycle gas-fired combustion peaking facilities with a collective capacity of four hundred thirty (430) megawatts. One of the coal-fired stations, Merom Station in Sullivan County, consists of two (2) five hundred eight (508) megawatt units burning high sulfur coal from southern Indiana each equipped with a wet limestone FGD, a SCR, and a cold-side electrostatic precipitator (ESP). The other coal-fired station, Ratts Station in Pike County, consists of two (2) one hundred twenty-five (125) units burning medium sulfur coal from southern Indiana each equipped with low NO<sub>x</sub> burners and cold-side ESP. With SCR and FGD already installed at the Merom Station, Hoosier Energy is poised to be in compliance with CAIR. IDEM's analysis assumes installation of SCR and FGD at the Ratts Station. Hoosier Energy has not made any commitments to install these technologies at the Ratts Station since they are older smaller units and is still evaluating available compliance option. The flexibility provided by a cap and trade program is extremely important. This flexibility is also essential for the mercury rule which the board will consider later in a separate rulemaking. The commenter also supports the utilities workgroup process and the comments presented by IEA. (HE)

*Response:* IDEM acknowledges that controls projected to be installed at specific units may not be the compliance options that a utility chooses to use to comply with CAIR. IDEM appreciates the support expressed for the draft rule.

*Comment:* Indiana-Michigan Power Company, a subsidiary of American Electric Power and member of the IEA, supports the comments made by IEA. The workgroup meetings for this rulemaking have been beneficial and the draft CAIR that generally follows the federal CAIR rule should be a very workable rule for the regulated community. There is one item that raises concern and that is the cost analysis. Both the IDEM and IUG cost analyses underestimate compliance costs because of two (2) unanticipated issues: construction site labor costs and the impact of high demand for steel, both structural and allow, and fiber-reinforced plastics (material costs).

(AEP)

*Response:* IDEM acknowledges that there maybe unanticipated costs to comply with the rule.

*Comment:* Duke Energy Indiana is the largest electric power company in Indiana with over ninety-five percent (95 %) generated from coal. Even though the rule will require installation of many new and expensive pollution control devices the commenter supports the rule. The rule strikes an appropriate balance between the original objectives of the federal rule and Indiana specific concerns. An example of the large implications of this rule is the recent project approved by the Indiana Regulatory Commission (IURC) of approximately one (\$1) billion dollars in pollution control equipment that Duke Energy is installing to comply with this rule. There commenter supports the changes that IDEM included in the draft rule to address comments made during the rulemaking process. First, the commenter supports the revised draft rule that includes the fuel adjustment factors included in the federal rule providing a more reasonable balance in the treatment of coal versus natural gas-fired generation. Second, the commenter agrees that companies should be encouraged to reinvest and refurbish existing brownfield sites instead of building on new greenfield sites. Third, the commenter supports the revised draft rule that includes a incentive for companies to build new more efficient and cleaner burning coal-fired power plants, such as integrated gasification combined cycle (IGCC) facilities. Fourth, the commenter supports the revised draft rule that includes a mechanism for providing some certainty to how many early NO<sub>x</sub> reduction credits will be available for each unit. There are few remaining issues with the rule that should be addressed through the utilities rule workgroup process. (DUKE)

*Response:* IDEM appreciates the support and will continue to work with all commenters to address remaining issues by final adoption.

*Comment:* This is a very important public health rule and will result in large reductions of emissions from SO<sub>2</sub> and NO<sub>x</sub>, which are precursors of ozone and fine particles, the two (2) main air pollutants that affect thousands of adults and children with asthma. A 2002 report on the asthma burden in Indiana prepared by the State Department of Health and the Indiana Joint Asthma Coalition reported that as many as fifteen percent (15%) of Indiana households reported that they had at least one (1) child who had been diagnosed with asthma. Fine particles are also associated with cardiovascular effects. The commenter supports the improvements that IDEM has made to the EE/RE set-aside, including a new provision whereby a portion of unused EE/RE allowances can be used to fund a grant program for small projects that might not otherwise get any sort of incentive. The commenter also supports the changes to the compliance supplement pool that includes an incentive for CAIR control technologies with a mercury co-benefit. (IKE)

*Response:* IDEM agrees and appreciates the support.

*Comment:* EE/RE set-aside is an important program that should receive full support. As energy costs rise energy efficiency is going to be an important way for organizations to meet these rising utility costs. There are still people throughout the state that do not know about this program and IDEM should expand efforts to educate the public that this program exists. The commenter is concerned that the EE/RE set-aside awards allowances for IGCC, since it is not a renewable energy source. The program should be used to promote renewable energy sources, such as wind energy. (HEC)

*Response:* IDEM appreciates the support. IDEM acknowledges that interest in the Clean Energy Credit Program has not been at the level anticipated when the program was initially available. However, IDEM and the Energy Office have worked extensively over the past year to increase the marketing of the program. In 2004, a brochure explaining the program was developed and mailed to the largest energy users in Indiana. There have also been increased efforts to market the program to companies that may be applying for Energy Office grants and to promote the program at various workshops or conferences. The effort has provided results, in that, IDEM has received applications totaling over one hundred (100) allowances for 2006 and over fifty (50) allowances were granted for 2005. IDEM and the Energy Office will continue to aggressively promote the program to increase applications even further. IGCC projects were included based on highly efficient electrical generation, not because of the use of renewable energy.

[326 IAC 10-3-1](#); [326 IAC 10-4-2](#); [326 IAC 10-4-9](#); [326 IAC 10-4-16](#); [326 IAC 24](#)

SECTION 1. [326 IAC 10-3-1](#) IS AMENDED TO READ AS FOLLOWS:

### [326 IAC 10-3-1](#) Applicability

**Authority:** [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

**Affected:** [IC 13-15](#); [IC 13-17](#)

Sec. 1. (a) This rule applies to any of the following:

(1) Portland cement kiln with process rates equal to or greater than:

(A) long dry kilns of twelve (12) tons per hour (tph);

- (B) long wet kilns of ten (10) tph;  
 (C) preheater kilns of sixteen (16) tph; or  
 (D) precalciner and combined preheater and precalciner kilns of twenty-two (22) tph.  
 (2) The following affected boilers, **except that U.S. Steel - Gary Works boilers listed in clause (C), are not affected boilers until January 1, 2010:**

Source	Point ID	Unit
(A) Bethlehem Steel Corporation	075	Boiler #7
	076	Boiler #8
	077	Boiler #9
	078	Boiler #10
	079	Boiler #11
	080	Boiler #12
(B) LTV Steel Company	020	Boiler #4
	021	Boiler #5
	022	Boiler #6
	023	Boiler #7
	024	Boiler #8
	024	Boiler #8
<b>(C) U.S. Steel - Gary Works</b>	<b>720</b>	<b>Boiler #1</b>
	<b>720</b>	<b>Boiler #2</b>
	<b>720</b>	<b>Boiler #3</b>
	<b>701</b>	<b>Boiler #1</b>
	<b>701</b>	<b>Boiler #2</b>
	<b>701</b>	<b>Boiler #3</b>
	<b>701</b>	<b>Boiler #5</b>
	<b>701</b>	<b>Boiler #6</b>

- (3) Any other blast furnace gas fired boiler with a heat input greater than two hundred fifty million (250,000,000) British thermal units per hour that is not subject to [326 IAC 10-4](#).

(b) A unit subject to this rule and a New Source Performance Standard (NSPS), a National Emission Standard for Hazardous Air Pollutants, or an emission limit established under [326 IAC 2](#) shall comply with the limitations and requirements of the more stringent rule. For a unit subject to this rule and [326 IAC 10-1](#), compliance with the emission limits in section 3(a)(1)(A) of this rule during the ozone control period shall be deemed to be compliance with the emission limits in [326 IAC 10-1-4\(b\)\(1\)](#) during the ozone control period, and such limits shall supersede those in [326 IAC 10-1-4\(b\)\(1\)](#) during the ozone control period.

(c) The monitoring, record keeping, and reporting requirements under sections 4 and 5 of this rule shall not apply to a unit that opts into the NO<sub>x</sub> budget trading program under [326 IAC 10-4](#).

(d) The requirements of this rule shall not apply to the specific units subject to this rule during startup and shutdown periods and periods of malfunction.

(e) During periods of blast furnace reline, startup, and period of malfunction, the affected boilers shall not be required to meet the requirement to derive fifty percent (50%) of the heat input from blast furnace gas.

*(Air Pollution Control Board; [326 IAC 10-3-1](#); filed Aug 17, 2001, 3:45 p.m.: 25 IR 14; errata filed Nov 29, 2001, 12:20 p.m.: 25 IR 1183; filed Jul 7, 2003, 4:00 p.m.: 26 IR 3550)*

SECTION 2. [326 IAC 10-4-2](#) IS AMENDED TO READ AS FOLLOWS:

### [326 IAC 10-4-2](#) Definitions

**Authority:** [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

**Affected:** [IC 13-11-2](#); [IC 13-15](#); [IC 13-17](#)

Sec. 2. For purposes of this rule, the definition given for a term in this rule shall control in any conflict between [326 IAC 1-2](#) and this rule. In addition to the definitions provided in [IC 13-11-2](#) and [326 IAC 1-2](#), the following

definitions apply throughout this rule, unless expressly stated otherwise or unless the context clearly implies otherwise:

- (1) "Account certificate of representation" means the completed and signed submission required by section 6 of this rule for certifying the designation of a NO<sub>x</sub> authorized account representative for a NO<sub>x</sub> budget source or a group of identified NO<sub>x</sub> budget sources who<sup>x</sup> is authorized to represent the owners or operators of the source or sources and of the NO<sub>x</sub> budget units at the source or sources with regard to matters under the NO<sub>x</sub> budget trading program.
- (2) "Account number" means the identification number given by the U.S. EPA to each NO<sub>x</sub> allowance tracking system account.
- (3) "Acid rain emissions limitation" means, as defined in 40 CFR 72.2\*, a limitation on emissions of sulfur dioxide or nitrogen oxides under the acid rain program under Title IV of the Clean Air Act (CAA).
- (4) "Allocate" or "allocation" means the determination by the department or the U.S. EPA of the number of NO<sub>x</sub> allowances to be initially credited to a NO<sub>x</sub> budget unit or an allocation set-aside.
- (5) "Automated data acquisition and handling system" or "DAHS" means that component of the CEMS, or other emissions monitoring system approved for use under 40 CFR 75, Subpart H\*, designed to interpret and convert individual output signals from pollutant concentration monitors, flow monitors, diluent gas monitors, and other component parts of the monitoring system to produce a continuous record of the measured parameters in the measurement units required by 40 CFR 75, Subpart H\*.
- (6) "Boiler" means an enclosed fossil or other fuel-fired combustion device used to produce heat and to transfer heat to recirculating water, steam, or other heat transfer medium.
- (7) "Combined cycle system" means a system comprised of one (1) or more combustion turbines, heat recovery steam generators, and steam turbines configured to improve overall efficiency of electricity generation or steam production.
- (8) "Combustion turbine" means an enclosed fossil or other fuel-fired device that is comprised of a compressor, a combustor, and a turbine, and in which the flue gas resulting from the combustion of fuel in the combustor passes through the turbine, rotating the turbine.
- (9) "Commence commercial operation" means, with regard to a unit that serves a generator, to have begun to produce steam, gas, or other heated medium used to generate electricity for sale or use, including test generation subject to the following:
  - (A) Except as provided in section 3 of this rule, for a unit that is a NO<sub>x</sub> budget unit under section 1 of this rule on the date the unit commences commercial operation, the date<sup>x</sup> shall remain the unit's date of commencement of commercial operation even if the unit is subsequently modified, reconstructed, or repowered.
  - (B) Except as provided in section 3 or 13 of this rule, for a unit that is not a NO<sub>x</sub> budget unit under section 1 of this rule on the date the unit commences commercial operation, the date the unit becomes a NO<sub>x</sub> budget unit under section 1 of this rule shall be the unit's date of commencement of commercial operation.
- (10) "Commence operation" means to have begun any mechanical, chemical, or electronic process, including, with regard to a unit, startup of a unit's combustion chamber subject to the following:
  - (A) Except as provided in section 3 of this rule, for a unit that is a NO<sub>x</sub> budget unit under section 1 of this rule on the date of commencement of operation, the date shall remain<sup>x</sup> the unit's date of commencement of operation even if the unit is subsequently modified, reconstructed, or repowered.
  - (B) Except as provided in section 3 or 13 of this rule, for a unit that is not a NO<sub>x</sub> budget unit under section 1 of this rule on the date of commencement of operation, the date the unit becomes a NO<sub>x</sub> budget unit under section 1 of this rule shall be the unit's date of commencement of operation.
- (11) "Common stack" means a single flue through which emissions from two (2) or more units are exhausted.
- (12) "Compliance account" means a NO<sub>x</sub> allowance tracking system account, established by the U.S. EPA for a NO<sub>x</sub> budget unit under section 10 of this rule, in which the NO<sub>x</sub> allowance allocations for the unit are initially recorded and in which are held NO<sub>x</sub> allowances available for use<sup>x</sup> by the unit for an ozone control period for the purpose of meeting the unit's NO<sub>x</sub> budget emissions limitation.
- (13) "Compliance certification" means a submission to the department or the U.S. EPA, as appropriate, that is required under section 8 of this rule to report a NO<sub>x</sub> budget source's or a NO<sub>x</sub> budget unit's compliance or noncompliance with this rule and that is signed by the NO<sub>x</sub> authorized account representative in accordance with section 6 of this rule.
- (14) "Continuous emission monitoring system" or "CEMS" means the equipment required under 40 CFR 75, Subpart H\* to sample, analyze, measure, and provide, by means of readings taken at least once every fifteen (15) minutes using an automated data acquisition and handling system (DAHS), a permanent record of nitrogen oxides (NO<sub>x</sub>) emissions, stack gas volumetric flow rate or stack gas moisture content (as applicable), in a manner consistent with 40 CFR 75\*. The following are the principal types of continuous emission monitoring systems required under section 12 of this rule:
  - (A) A flow monitoring system, consisting of a stack flow rate monitor and an automated DAHS. A flow monitoring system provides a permanent, continuous record of stack gas volumetric flow rate, in units of

standard cubic feet per hour (scfh).

(B) A nitrogen oxides concentration monitoring system, consisting of a NO<sub>x</sub> pollutant concentration monitor and an automated DAHS. A NO<sub>x</sub> concentration monitoring system provides a permanent, continuous record of NO<sub>x</sub> emissions in units of parts per million (ppm).

(C) A nitrogen oxides emission rate (or NO<sub>x</sub>-diluent) monitoring system, consisting of:

- (i) a NO<sub>x</sub> pollutant concentration monitor;
- (ii) a diluent gas (CO<sub>2</sub> or O<sub>2</sub>) monitor; and
- (iii) an automated DAHS.

A NO<sub>x</sub> concentration monitoring system provides a permanent, continuous record of NO<sub>x</sub> concentration in units of parts per million (ppm) and diluent gas concentration in units of percent O<sub>2</sub> or CO<sub>2</sub> (percent O<sub>2</sub> or CO<sub>2</sub>) and NO<sub>x</sub> emission rate in units of pounds per million British thermal units.

(D) A moisture monitoring system is required by 40 CFR 75, Subpart H\*. A moisture monitoring system provides a permanent, continuous record of the stack gas moisture content, in units of percent H<sub>2</sub>O (percent H<sub>2</sub>O).

(E) An automated data acquisition and handling system.

(15) "Electricity for sale under firm contract to the grid" means electricity for sale where the capacity involved is intended to be available at all times during the period covered by a guaranteed commitment to deliver, even under adverse conditions.

(16) "Electricity generating unit" or "EGU" means the following:

(A) For units other than cogeneration units commencing operation:

- (i) before January 1, 1997, a unit serving a generator during 1995 or 1996 that had a nameplate capacity greater than twenty-five (25) megawatts and produced electricity for sale under a firm contract to the electric grid;
- (ii) on or after January 1, 1997, and before January 1, 1999, a unit serving a generator during 1997 or 1998 that had a nameplate capacity greater than twenty-five (25) megawatts and producing electricity for sale under a firm contract to the electric grid; or
- (iii) on or after January 1, 1999, a unit serving a generator at any time that has a nameplate capacity greater than twenty-five (25) megawatts and produces electricity for sale.

(B) For cogeneration units commencing operation:

- (i) before January 1, 1997, a unit serving a generator during 1995 or 1996 that had a nameplate capacity greater than twenty-five (25) megawatts and failing to qualify as an unaffected unit for 1995 or 1996 under the acid rain program;
- (ii) in 1997 or 1998, a unit serving a generator during 1997 or 1998 with a nameplate capacity greater than twenty-five (25) megawatts and failing to qualify as an unaffected unit for 1997 or 1998 under the acid rain program; or
- (iii) on or after January 1, 1999, a unit serving at any time as a generator with a nameplate capacity greater than twenty-five (25) megawatts and failing to qualify as an unaffected unit under the acid rain program for any year.

(17) "Emissions", for the purpose of this rule, means nitrogen oxides exhausted from a unit or source into the atmosphere, as measured, recorded, and reported to the U.S. EPA by the NO<sub>x</sub> authorized account representative and as determined by the U.S. EPA in accordance with 40 CFR 75, Subpart H\*.

(18) "Energy efficiency or renewable energy projects" means any of the following implemented in Indiana:

(A) End-use energy efficiency projects, including demand-side management programs.

(B) Highly efficient electricity **or steam** generation for the predominant use of a single end-user, such as combined cycle, combined heat and power, microturbines, and fuel cell systems. In order to be considered as highly efficient electricity generation under this clause, combined cycle, combined heat and power, microturbines, and fuel cell generating systems must meet or exceed the following thresholds:

- (i) For combined heat and power projects generating both electricity and thermal energy for space, water, or industrial process heat, rated energy efficiency of sixty percent (60%).
- (ii) For microturbine projects rated at or below five hundred (500) kilowatts generating capacity, rated energy efficiency of forty percent (40%).
- (iii) For combined cycle projects rated at greater than five hundred (500) kilowatts, rated energy efficiency of fifty percent (50%).
- (iv) For fuel cell systems, rated energy efficiency of forty percent (40%), whether or not the fuel cell system is part of a combined heat and power energy system.

(C) Zero-emission renewable energy projects, including wind, photovoltaic, and hydropower projects.

Eligible hydropower projects are restricted to systems employing a head of ten (10) feet or less or systems employing a head greater than ten (10) feet that make use of a dam that existed ~~prior to the effective date of this rule~~ **before September 16, 2001**.

(D) Energy efficiency projects generating electricity through the capture of methane gas from municipal solid waste landfills, water treatment plants, sewage treatment plants, or anaerobic digestion systems operating



on animal or plant wastes.

(E) The installation of highly efficient electricity generation equipment for the sale of power where such equipment replaces or displaces retired electrical generating units. In order to be considered as highly efficient under this clause, generation equipment must meet or exceed the following energy efficiency thresholds:

(i) For coal-fired electrical generation units, rated energy efficiency of forty-two percent (42%).

(ii) For natural gas-fired electrical generating units, rated energy efficiency of fifty percent (50%).

(F) Improvements to existing fossil fuel fired electrical generation units that increase the efficiency of the unit and decrease the heat rate used to generate electricity.

**(G) The installation of integrated gasification combined cycle equipment for producing electricity for sale.**

**(H) Renewable energy projects that displace the use of coal, natural gas, or oil through the use of a renewable fuel and reduce NO<sub>x</sub> emissions.**

Energy efficiency or renewable energy projects do not include nuclear power projects. This definition is solely for the purposes of implementing this rule and does not apply in other contexts.

(19) "Energy Information Administration" means the Energy Information Administration of the United States Department of Energy.

(20) "Excess emissions" means any tonnage of NO<sub>x</sub> emitted by a NO<sub>x</sub> budget unit during an ozone control period that exceeds the NO<sub>x</sub> budget emissions limitation for the unit.

(21) "Fossil fuel" means any of the following:

(A) Natural gas.

(B) Petroleum.

(C) Coal.

(D) Any form of solid, liquid, or gaseous fuel derived from the above material.

(22) "Fossil fuel-fired" means, with regard to a unit, the combustion of fossil fuel, alone or in combination with any other fuel, under any of the following scenarios:

(A) Fossil fuel actually combusted comprises more than fifty percent (50%) of the annual heat input on a British thermal unit (Btu) basis during any year starting in 1995. If a unit had no heat input starting in 1995, during the last year of operation of the unit prior to 1995.

(B) Fossil fuel is projected to comprise more than fifty percent (50%) of the annual heat input on a Btu basis during any year, provided that the unit shall be fossil fuel-fired as of the date, during the year, that the unit begins combusting fossil fuel.

(23) "General account" means a NO<sub>x</sub> allowance tracking system account, established under section 10 of this rule, that is not a compliance account or an overdraft account.

(24) "Generator" means a device that produces electricity.

(25) "Heat input" means the product, in million British thermal units per unit of time (MMBtu/time), of the following:

(A) The gross calorific value of the fuel, in British thermal units per pound (Btu/lb).

(B) The fuel feed rate into a combustion device, in mass of fuel per unit of time (lb/time), as measured, recorded, and reported to the U.S. EPA by the NO<sub>x</sub> authorized account representative and as determined by the U.S. EPA in accordance with 40 CFR 75, Subpart H\*.

Heat input does not include the heat derived from preheated combustion air, recirculated flue gases, or exhaust from other sources.

(26) "Heat input rate" means the amount of heat input (in MMBtu) divided by unit operating time (in hours) or, with regard to a specific fuel, the amount of heat input attributed to the fuel (in MMBtu) divided by the unit operating time (in hours) during which the unit combusts the fuel.

(27) "Large affected unit" means the following for units that commenced operation:

(i) **(A) For units other than cogeneration units, the following:**

(i) Before January 1, 1997, a unit that has a maximum design heat input greater than two hundred fifty million (250,000,000) Btus per hour and that did not serve during 1995 or 1996 a generator producing electricity for sale under a firm contract to the electric grid.

(ii) On or after January 1, 1997, and before January 1, 1999, a unit that has a maximum design heat input greater than two hundred fifty million (250,000,000) Btus per hour and that did not serve during 1997 or 1998 a generator producing electricity for sale under a firm contract to the electric grid. or

(iii) On or after January 1, 1999, a unit with a maximum design heat input greater than two hundred fifty million (250,000,000) Btus per hour that:

(AA) at no time serves a generator producing electricity for sale; or

(BB) at any time serves a generator producing electricity for sale, if any such generator has a nameplate capacity of twenty-five (25) megawatts or less and has the potential to use no more than fifty percent (50%) of the potential electrical output capacity of the unit.

(B) For cogeneration units commencing operation, **the following:**

- (i) Before January 1, 1997, a unit with a maximum design heat input greater than two hundred fifty million (250,000,000) Btus per hour and qualifying as an unaffected unit under the acid rain program for 1995 and 1996.
- (ii) In 1997 or 1998, a unit with a maximum design heat input greater than two hundred fifty million (250,000,000) Btus per hour and qualifying as an unaffected unit under the acid rain program for 1997 and 1998. ~~or~~
- (iii) On or after January 1, 1999, a unit with a maximum design heat input greater than two hundred fifty million (250,000,000) Btus per hour and qualifying as an unaffected unit under the acid rain program for each year.

~~Large affected unit~~ **The term** does not include a unit subject to [326 IAC 10-3](#).

(28) "Life-of-the-unit, firm power contractual arrangement" means a unit participation power sales agreement under which a utility or industrial customer reserves, or is entitled to receive, a specified amount or percentage of nameplate capacity and associated energy from any specified unit and pays its proportional amount of the unit's total costs, pursuant to a contract:

- (A) for the life of the unit;
- (B) for a cumulative term of no less than thirty (30) years, including contracts that permit an election for early termination; or
- (C) for a period equal to or greater than twenty-five (25) years or seventy percent (70%) of the economic useful life of the unit determined as of the time the unit is built, with option rights to purchase or release some portion of the nameplate capacity and associated energy generated by the unit at the end of the period.

(29) "Maximum design heat input" means the ability of a unit to combust a stated maximum amount of fuel per hour on a steady state basis, as determined by the physical design and physical characteristics of the unit.

(30) "Maximum potential hourly heat input" means an hourly heat input used for reporting purposes when a unit lacks certified monitors to report heat input. The unit may use either of the following:

- (A) 40 CFR 75, Appendix D\* to report heat input. Calculate this value in accordance with 40 CFR 75\*, using the maximum fuel flow rate and the maximum gross calorific value.
- (B) A flow monitor and a diluent gas monitor. Report this value in accordance with 40 CFR 75\*, using the maximum potential flow rate and either of the following:
  - (i) The maximum carbon dioxide (CO<sub>2</sub>) concentration, in percent of CO<sub>2</sub>.
  - (ii) The minimum oxygen (O<sub>2</sub>) concentration, in percent of O<sub>2</sub>.

(31) "Maximum potential NO<sub>x</sub> emission rate" means:

- (A) the emission rate of nitrogen oxides, in pounds per million British thermal units (lb/MMBtu);
- (B) calculated in accordance with 40 CFR 75, Appendix F, Section 3\*;
- (C) using the maximum potential nitrogen oxides concentration as defined in 40 CFR 75, Appendix A, Section 2\*; and
- (D) either the:
  - (i) maximum oxygen (O<sub>2</sub>) concentration in percent of O<sub>2</sub>; or
  - (ii) minimum carbon dioxide (CO<sub>2</sub>) concentration in percent of CO<sub>2</sub>;

under all operating conditions of the unit except for unit start up, shutdown, and upsets.

(32) "Maximum rated hourly heat input" means a unit-specific maximum hourly heat input, in million British thermal units (MMBtu), that is the higher of either the manufacturer's maximum rated hourly heat input or the highest observed hourly heat input.

(33) "Monitoring system" means any monitoring system that meets the requirements of 40 CFR 75, Subpart H\*, including the following:

- (A) A continuous emissions monitoring system.
- (B) An excepted monitoring system under 40 CFR 75.19\* or 40 CFR 75, Appendix D or E\*.
- (C) An alternative monitoring system.

(34) "Most stringent state or federal NO<sub>x</sub> emissions limitation" means the lowest NO<sub>x</sub> emissions limitation, in terms of pounds per million British thermal units (lb/MMBtu), that is applicable to the unit under state or federal law, regardless of the averaging period to which the emissions limitation applies.

(35) "Nameplate capacity" means the maximum electrical generating output, in megawatt electrical (MWe), that a generator can sustain over a specified period of time when not restricted by seasonal or other deratings as measured in accordance with the United States Department of Energy standards.

(36) "Nontitle V permit" means a federally enforceable permit issued by the department under [326 IAC 2-8](#).

(37) "NO<sub>x</sub> allowance" means an authorization by the department or the U.S. EPA under the nitrogen oxides (NO<sub>x</sub>) budget trading program to emit up to one (1) ton of NO<sub>x</sub> during the ozone control period of the specified year or of any year thereafter, except as provided in section 14(b) of this rule. The term also includes an authorization to emit up to one (1) ton of nitrogen oxides during the ozone control period of the specified year or of any year thereafter by the U.S. EPA under 40 CFR 97\* or by a permitting authority in accordance with a state NO<sub>x</sub> budget trading program established pursuant to 40 CFR 51.121\* and approved and administered by

the U.S. EPA.

(38) "NO<sub>x</sub> allowance deduction" or "deduct NO<sub>x</sub> allowances" means the permanent withdrawal of NO<sub>x</sub> allowances by the U.S. EPA from a NO<sub>x</sub> allowance tracking system compliance account or overdraft account to account for the number of tons of NO<sub>x</sub> emissions from a NO<sub>x</sub> budget unit for an ozone control period, determined in accordance with 40 CFR 75, Subpart H\* and section 12 of this rule, or for any other allowance surrender obligation under this rule.

(39) "NO<sub>x</sub> allowance tracking system" means the system by which the U.S. EPA records allocations, deductions, and transfers of NO<sub>x</sub> allowances under the NO<sub>x</sub> budget trading program.

(40) "NO<sub>x</sub> allowance tracking system account" means an account in the NO<sub>x</sub> allowance tracking system established by the U.S. EPA for purposes of recording the allocation, holding, transferring, or deducting of NO<sub>x</sub> allowances.

(41) "NO<sub>x</sub> allowance transfer deadline" means midnight of November 30 or, if November 30 is not a business day, midnight of the first business day thereafter and is the deadline by which NO<sub>x</sub> allowances may be submitted for recordation in a NO<sub>x</sub> budget unit's compliance account, or the overdraft account of the source where the unit is located, in order to meet the unit's NO<sub>x</sub> budget emissions limitation for the ozone control period immediately preceding the deadline.

(42) "NO<sub>x</sub> allowances held" or "hold NO<sub>x</sub> allowances" means the NO<sub>x</sub> allowances recorded by the U.S. EPA, or submitted to the U.S. EPA for recordation, in accordance with sections 10 and 11 of this rule, in a NO<sub>x</sub> allowance tracking system account.

(43) "NO<sub>x</sub> authorized account representative" means either of the following:

(A) For a NO<sub>x</sub> budget source or NO<sub>x</sub> budget unit at the source, the natural person who is authorized by the owners or operators of the source and all NO<sub>x</sub> budget units at the source, in accordance with section 6 of this rule, to represent and legally bind each owner or operator in matters pertaining to the NO<sub>x</sub> budget trading program.

(B) For a general account, the natural person who is authorized, in accordance with section 10 of this rule, to transfer or otherwise dispose of NO<sub>x</sub> allowances held in the general account.

(44) "NO<sub>x</sub> budget emissions limitation" means, for a NO<sub>x</sub> budget unit, the tonnage equivalent of the NO<sub>x</sub> allowances available for compliance deduction for the unit and for an ozone control period under sections 10(i) and 10(k) of this rule, adjusted by any deductions of the NO<sub>x</sub> allowances for any of the following reasons:

(A) To account for:

(i) excess emissions for a prior ozone control period under section 10(k)(5) of this rule; or

(ii) withdrawal from the NO<sub>x</sub> budget trading program.

(B) For a change in regulatory status, for a NO<sub>x</sub> budget opt-in source under section 13(g) through 13(i) of this rule.

(45) "NO<sub>x</sub> budget opt-in permit" means a NO<sub>x</sub> budget permit covering a NO<sub>x</sub> budget opt-in source.

(46) "NO<sub>x</sub> budget opt-in source" means a source that includes one (1) or more NO<sub>x</sub> budget units:

(A) that has elected to become a NO<sub>x</sub> budget source under the NO<sub>x</sub> budget trading program; and

(B) whose NO<sub>x</sub> budget opt-in permit has been issued and is in effect under section 13 of this rule.

(47) "NO<sub>x</sub> budget permit" means the legally binding and federally enforceable written document or portion of the document:

(A) issued by the department under this rule, including any permit revisions; and

(B) specifying the NO<sub>x</sub> budget trading program requirements applicable to the following:

(i) A NO<sub>x</sub> budget source.

(ii) Each NO<sub>x</sub> budget unit at the NO<sub>x</sub> budget source.

(iii) The owners or operators and the NO<sub>x</sub> authorized account representative of the NO<sub>x</sub> budget source and each NO<sub>x</sub> budget unit.

(48) "NO<sub>x</sub> budget source" means a source that includes one (1) or more NO<sub>x</sub> budget units.

(49) "NO<sub>x</sub> budget trading program" means a multistate nitrogen oxides air pollution control and emission reduction program established in accordance with this rule, 40 CFR 97\*, and a state NO<sub>x</sub> budget trading program established pursuant to 40 CFR 51.121\* and approved and administered by the U.S. EPA as a means of mitigating the interstate transport of ozone and nitrogen oxides, an ozone precursor.

(50) "NO<sub>x</sub> budget unit" means a unit that is subject to the NO<sub>x</sub> budget emissions limitation under section 1(a) or 13(a) of this rule.

(51) "Operating" means, with regard to a unit under sections 7(c)(4)(B) and 13(a) of this rule, having documented heat input for more than eight hundred seventy-six (876) hours in the six (6) months immediately preceding the submission of an application for an initial NO<sub>x</sub> budget permit under section 13(d) of this rule.

(52) "Operator" means any person who operates, controls, or supervises a NO<sub>x</sub> budget unit, a NO<sub>x</sub> budget source, or a unit for which an application for a NO<sub>x</sub> budget opt-in permit under section 13(d) of this rule is submitted and not denied or withdrawn and shall include, but not be limited to, any holding company, utility system, or plant manager of a unit or source.

(53) "Opt-in" means to elect to become a NO<sub>x</sub> budget unit under the NO<sub>x</sub> budget trading program through a

final, effective NO<sub>x</sub> budget opt-in permit under section 13 of this rule.

(54) "Overdraft account" means the NO<sub>x</sub> allowance tracking system account, established by the U.S. EPA under section 10 of this rule, for each NO<sub>x</sub> budget source where there are two (2) or more NO<sub>x</sub> budget units.

(55) "Owner" means any of the following persons:

(A) Any holder of:

- (i) any portion of the legal or equitable title; or
- (ii) a leasehold interest;

in a NO<sub>x</sub> budget unit or in a unit for which an application for a NO<sub>x</sub> budget opt-in permit under section 13(d) of this rule is submitted and not denied or withdrawn.

(B) Any purchaser of power from a NO<sub>x</sub> budget unit or from a unit for which an application for a NO<sub>x</sub> budget opt-in permit under section 13(d) of this rule is submitted and not denied or withdrawn under a life-of-the-unit, firm power contractual arrangement. However, unless expressly provided for in a leasehold agreement, owner shall not include a passive lessor, or a person who has an equitable interest through the lessor, whose rental payments are not based, either directly or indirectly, upon the revenues or income from the NO<sub>x</sub> budget unit or the unit for which an application for a NO<sub>x</sub> budget opt-in permit under section 13(d) of this rule is submitted and not denied or withdrawn.

(C) With respect to any general account, any person who has an ownership interest with respect to the NO<sub>x</sub> allowances held in the general account and who is subject to the binding agreement for the NO<sub>x</sub> authorized account representative to represent that person's ownership interest with respect to NO<sub>x</sub> allowances.

(56) "Ozone control period" means the period as follows:

(A) For 2004, beginning May 31 and ending on September 30, inclusive.

(B) For 2005 and each year thereafter, beginning May 1 of a year and ending on September 30 of the same year, inclusive.

(57) "Percent monitor data availability" means, for purposes of sections 13(e)(2) and 15(b)(1)(D) of this rule, total unit operating hours for which quality-assured data were recorded under 40 CFR 75, Subpart H\* and section 12 of this rule in a control period, divided by the total number of unit operating hours per control period, and multiplied by one hundred percent (100%).

(58) "Potential electrical output capacity" means thirty-three percent (33%) of a unit's maximum design heat input.

(59) "Rated energy efficiency" means the percentage of gross energy input that is recovered as useable net energy output in the form of electricity or thermal energy, or both, that is used for heating, cooling, industrial processes, or other beneficial uses as follows:

(A) For electric generators, rated energy efficiency is calculated as one (1) net kilowatt hour (three thousand four hundred twelve (3,412) British thermal units) of electricity divided by the unit's design heat rate using the higher heating value of the fuel.

(B) For combined heat and power projects, rated energy efficiency is calculated using the following formula:

$$\text{Eff\%} = (\text{NEO} + \text{UTO})/\text{GEI}$$

Where:

Eff%	=	Rated energy efficiency.
NEO	=	Net electrical output of the system converted to British thermal units per unit of time.
UTO	=	Utilized thermal output or the energy value in British thermal units of thermal energy from the system that is used for heating, cooling, industrial processes, or other beneficial uses, per unit of time.
GEI	=	Gross energy input, based upon the higher heating value of fuel, per unit of time.

(60) "Receive" or "receipt of" means, when referring to the department or the U.S. EPA, to come into possession of a document, information, or correspondence, whether sent in writing or by authorized electronic transmission, as indicated in an official correspondence log, or by a notation made on the document, information, or correspondence, by the department or the U.S. EPA in the regular course of business.

(61) "Recordation", "record", or "recorded" means, with regard to NO<sub>x</sub> allowances, the movement of NO<sub>x</sub> allowances by the U.S. EPA from one (1) NO<sub>x</sub> allowance tracking system account to another, for purposes of allocation, transfer, or deduction.

(62) "Reference method" means any direct test method of sampling and analyzing for an air pollutant as specified in 40 CFR 60, Appendix A\*.

(63) "Repowered natural gas-fired generating unit" means an electricity generating unit that is fueled by natural gas and provides steam to a generation turbine that was previously served by a coal-fired unit that was retired in 2000 or later.

(64) "Serial number" means, when referring to NO<sub>x</sub> allowances, the unique identification number assigned to each NO<sub>x</sub> allowance by the U.S. EPA, under section 10(e) through 10(g) of this rule.

(65) "Source" means any governmental, institutional, commercial, or industrial:

- (A) structure;
- (B) installation;

- (C) plant;
- (D) building; or
- (E) facility;

that emits or has the potential to emit any regulated air pollutant under the CAA. For purposes of Section 502(c) of the CAA, a source, including a source with multiple units, shall be considered a single facility.

(66) "Submit" or "serve" means to send or transmit a document, information, or correspondence to the person specified in accordance with the applicable regulation:

- (A) in person;
- (B) by United States Postal Service; or
- (C) by other means of dispatch or transmission and delivery.

Compliance with any submission, service, or mailing deadline shall be determined by the date of dispatch, transmission, or mailing and not the date of receipt.

(67) "Title V operating permit" means a permit issued under [326 IAC 2-7](#).

(68) "Title V operating permit regulations" means the rules under [326 IAC 2-7](#).

(69) "Ton" or "tonnage" means any short ton, two thousand (2,000) pounds. For the purpose of determining compliance with the NO<sub>x</sub> budget emissions limitation, total tons for an ozone control period shall be calculated as the sum of all recorded hourly emissions, or the tonnage equivalent of the recorded hourly emissions rates, in accordance with 40 CFR 75, Subpart H\*, with any remaining fraction of a ton equal to or greater than fifty-hundredths (0.50) ton deemed to equal one (1) ton and any fraction of a ton less than fifty-hundredths (0.50) ton deemed to equal zero (0) tons.

(70) "Trading program budget" means the total number of NO<sub>x</sub> tons apportioned to all NO<sub>x</sub> budget units, in accordance with the NO<sub>x</sub> budget trading program, for use in a given ozone control period.<sup>x</sup>

(71) "Unit" means a fossil fuel-fired:

- (A) stationary boiler;
- (B) combustion turbine; or
- (C) combined cycle system.

(72) "Unit operating day" means a calendar day in which a unit combusts any fuel.

(73) "Unit operating hour" or "hour of unit operation" means any hour, or fraction of an hour, during which a unit combusts any fuel.

(74) "United States Environmental Protection Agency" or "U.S. EPA" means the administrator of the U.S. EPA or the administrator's duly authorized representative. The department authorizes the U.S. EPA to assist the department in implementing this rule by carrying out the functions set forth for the U.S. EPA in this rule.

(75) "Utilization" means the heat input, expressed in million British thermal units per unit of time, for a unit. The unit's total heat input for the ozone control period in each year shall be:

- (A) determined in accordance with 40 CFR 75\* if the NO<sub>x</sub> budget unit was otherwise subject to the requirements of 40 CFR 75\* for the year; or
- (B) based on the best available data reported to the U.S. EPA for the unit if the unit was not otherwise subject to the requirements of 40 CFR 75\* for the year.

\*These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Avenue NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.

*(Air Pollution Control Board; [326 IAC 10-4-2](#); filed Aug 17, 2001, 3:45 p.m.: 25 IR 19; errata filed Nov 29, 2001, 12:20 p.m.: 25 IR 1183; filed Jul 7, 2003, 4:00 p.m.: 26 IR 3552; filed Jan 27, 2006, 11:25 a.m.: 29 IR 1879)*

SECTION 3. [326 IAC 10-4-9](#) IS AMENDED TO READ AS FOLLOWS:

**[326 IAC 10-4-9](#) NO<sub>x</sub> allowance allocations**

**Authority:** [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

**Affected:** [IC 13-15](#); [IC 13-17](#)

Sec. 9. (a) The trading program budget allocated by the department under subsections (d) through (f) for each ozone control period shall equal the total number of tons of NO<sub>x</sub> emissions apportioned to the NO<sub>x</sub> budget units under section 1 of this rule for the ozone control period, as determined by the procedures in this section. The total number of tons of NO<sub>x</sub> emissions that are available for each ozone control period for allocation as NO<sub>x</sub> allowances under this rule are fifty-five thousand seven hundred twenty-nine (55,729) tons apportioned as follows:

- (1) For existing units:



(A) forty-three thousand six hundred fifty-four (43,654) tons for electricity generating units in 2004 through 2009 and forty-five thousand thirty-three (45,033) tons thereafter; and

(B) eight thousand five hundred sixty-four (8,564) tons for large affected units;

less the sum of the NO<sub>x</sub> limitations (in tons) for each unit under section 1(b) of this rule that is not allocated any NO<sub>x</sub> allowances under subsection (d) for the ozone control period and whose NO<sub>x</sub> emission limitation (in tons of NO<sub>x</sub>) is not included in the amount calculated under subsection (e) for the control period.

(2) For new unit allocation set-asides:

(A) two thousand two hundred ninety-eight (2,298) tons for electricity generating units in 2004 through 2009, and nine hundred nineteen (919) tons thereafter; and

(B) ninety-eight (98) tons for large affected units in 2004 and each year thereafter.

(3) For the energy efficiency and renewable energy allocation set-aside, one thousand one hundred fifteen (1,115) tons.

(b) The department shall allocate NO<sub>x</sub> allowances to NO<sub>x</sub> budget units according to the following schedule:

(1) For EGUs, a three (3) year allocation that is recorded three (3) years in advance of the ozone control period that the allowances may be used as follows:

(A) ~~Within thirty (30) days of the effective date of this rule,~~ **By October 16, 2001**, the department shall submit to the U.S. EPA the NO<sub>x</sub> allowance allocations, in accordance with subsection (c), for the ozone control periods in 2004, 2005, and 2006.

(B) By December 31, 2003, the department shall submit to the U.S. EPA the NO<sub>x</sub> allowance allocations, in accordance with subsection (c), for the ozone control period in 2007, 2008, and 2009.

~~(C) By December 31, 2006, the department shall submit to the U.S. EPA the NO<sub>x</sub> allowance allocations, in accordance with subsection (c), for the ozone control period in 2010, 2011, and 2012.~~

~~(D) By December 31, 2009, and by December 31 every three (3) years thereafter, the department shall submit to the U.S. EPA the NO<sub>x</sub> allowance allocations, in accordance with subsection (c), for the ozone control periods four (4) years, five (5) years, and six (6) years after the year of the allowance allocation.~~

(2) For large affected units, ~~within thirty (30) days of the effective date of this rule~~ **by October 16, 2001**, the department shall submit to the U.S. EPA the NO<sub>x</sub> allowances for the ozone control periods in 2004 through 2009. ~~By December 31, 2006, the department shall review the allocations in light of emission trends, new units, and other relevant factors to determine whether revisions are appropriate.~~

(3) If the department fails to submit to the U.S. EPA the NO<sub>x</sub> allowance allocations in accordance with this rule, the U.S. EPA will allocate, for the applicable ozone control period, the same number of NO<sub>x</sub> allowances as were allocated for the preceding ozone control period.

(4) The department shall:

(A) make available for review to the public the NO<sub>x</sub> allowance allocations under subdivision (1)(B) ~~(1)(C), and (1)(D)~~ on December 31 of each year cited in subdivision (1)(B); ~~(1)(C), and (1)(D); and~~

(B) provide a thirty (30) day opportunity for submission of objections to the NO<sub>x</sub> allowance allocations.

Objections shall be limited to addressing whether the NO<sub>x</sub> allowance allocations are in accordance with this section. Based on any such objections, the department shall consider any objections and input from affected sources and, if appropriate, adjust each determination to the extent necessary to ensure that it is in accordance with this section. Any revised NO<sub>x</sub> allowance allocations shall be submitted to the U.S. EPA for recordation by the following April 1.

(c) The heat input, in million British thermal units (MMBtu), used for calculating NO<sub>x</sub> allowance allocations for each NO<sub>x</sub> budget unit under section 1 of this rule shall be:

(1) For a NO<sub>x</sub> allowance allocation under:

(A) subsection (b)(1)(A), the average of the two (2) highest amounts of the unit's heat input for the ozone control periods in 1995 through 1999; and

(B) subsection (b)(1)(B) ~~through (b)(1)(D)~~, the unit's average of the two (2) highest heat inputs for the ozone control period in the years that are one (1), two (2), three (3), four (4), and five (5) years before the year when the NO<sub>x</sub> allocation is being calculated.

For the purpose of this subdivision, the ozone control period for the year 2004 shall be from May 1 through September 30.

(2) If a NO<sub>x</sub> budget unit does not have a full five (5) years of ozone control period heat inputs, the following shall apply for a NO<sub>x</sub> budget unit:

(A) With ozone control period heat inputs for more than two (2) years, the average of the two (2) highest ozone control period heat inputs.

(B) With two (2) years of ozone control period heat input, the average of the ozone control period heat input for the two (2) years.

(C) With one (1) year of ozone control period heat input, the actual ozone control period heat input for that

year.

- (3) For a NO<sub>x</sub> allowance allocation under subsection (b)(1)(B) through (b)(1)(D) for a unit exempt under section 1(b) of this rule, the heat input shall be treated as zero (0) if the unit was exempt during the previous allocation period.

The unit's total heat input for the ozone control period in each year shall be determined in accordance with 40 CFR 75\* if the NO<sub>x</sub> budget unit was otherwise subject to the requirements of 40 CFR 75\* for the year or shall be based on the best available data reported to the department for the unit if the unit was not otherwise subject to the requirements of 40 CFR 75\* for the year. The owner or operator of a NO<sub>x</sub> budget unit shall submit heat input data within thirty (30) days if requested by the department.

(d) For each ozone control period under subsection (b), the department shall allocate to all NO<sub>x</sub> budget units that have been in operation for at least one (1) year prior to the year in which allocations are made, and for new NO<sub>x</sub> budget units that have commenced operation on or after May 1, 2000, and that have not submitted notification in accordance with subsection (i), a total number of NO<sub>x</sub> allowances equal to the amount under subsection (a)(1), in accordance with the following procedures:

- (1) The department shall allocate NO<sub>x</sub> allowances to each electricity generating unit in an amount equaling:

(A) fifteen-hundredths (0.15) pound<sub>x</sub> per million British thermal units; or

(B) the allowable emission rate as of the date that the unit becomes affected by this rule;

whichever is more stringent, except that a coal-fired electrical generation unit with a rated energy efficiency of forty percent (40%) or higher, a repowered natural gas-fired electrical generating unit with a rated energy efficiency of forty-five percent (45%) or higher, a natural gas-fired electrical generating unit, that is not repowered, with a rated energy efficiency of fifty percent (50%) or higher, or a combined heat and power unit with an overall rated energy efficiency of sixty percent (60%) or higher shall be allocated allowances based on fifteen-hundredths (0.15) lb/MMBtu notwithstanding the allowable emission rate, multiplied by the heat input determined under subsection (c) and the product divided by two thousand (2,000) pounds per ton, rounded to the nearest whole NO<sub>x</sub> allowance, as appropriate.

(2) If the initial total number of NO<sub>x</sub> allowances allocated to all electricity generating units for an ozone control period under subdivision (1) does not equal the amount under subsection (a)(1), the department shall adjust the total number of NO<sub>x</sub> allowances allocated to all NO<sub>x</sub> budget units for the ozone control period under subdivision (1) so that the total number of NO<sub>x</sub> allowances allocated equals the amount under subsection (a)(1). This adjustment shall be made by:

(A) multiplying each unit's allocation by the amount under subsection (a)(1); and

(B) dividing by the total number of NO<sub>x</sub> allowances allocated under subdivision (1) and rounding to the nearest whole NO<sub>x</sub> allowance, as appropriate.

(3) The department shall allocate NO<sub>x</sub> allowances to each large affected unit in an amount equaling the following:

Source	Unit	Allowances
(A) Alcoa	1	1,089
	2	1,057
	3	1,026
(B) American Electric Power-Rockport	Auxiliary Boiler 1	2
	Auxiliary Boiler 2	1
(C) BP Amoco-Boiler House 1	1	21
	2	21
	3	21
	4	21
	5	22
(D) BP Amoco-Boiler House 3	1	252
	2	252
	3	252
	4	252
	5	252
(E) Citizens Thermal Energy	11	120
	12	138
	13	85
	14	75
	15	54
	16	69

(F) Ispat Inland	211	110
	212	110
	213	109
	401	255
	402	255
	403	257
	404	257
	405	344
	501	137
	502	137
	503	137
	003	238
(G) New Energy		
(H) Portside Energy	Auxiliary Boiler 1	50
	Auxiliary Boiler 2	5
	Combustion Turbine	34
(I) Purdue University	1	90
	2	91
	3	8
	5	72
	720	107
(J) U.S. Steel-Gary Works	Boiler #1	
	720	107
	Boiler #2	
	720	107
	Boiler #3	
	701	78
	Boiler #1	
	701	78
	Boiler #2	
	701	78
	Boiler #3	
	701	86
	Boiler #5	
	701	145
	Boiler #6	

For units having an emission limitation only in tons on an annual basis, the allowable emission rate in pounds per million Btu (lb/MMBtu) shall be determined by dividing the emission limitation by eight thousand seven hundred sixty (8,760) hours, multiplying by two thousand (2,000) pounds, and dividing the result by the unit's permitted heat input rate. For units having an emission limitation only in parts per million (ppm), the conversion factors under [326 IAC 3-4-3](#) shall be used.

**(4) Notwithstanding subsection (e), in addition to the NO<sub>x</sub> ozone season allowances in subdivision (3), the department shall allocate to Purdue University for ozone control periods 2007 through 2009 sixty (60) NO<sub>x</sub> ozone season allowances for each control period from the energy efficiency and renewable energy allocation set-aside under subsection (a)(3) within one hundred twenty (120) days of the effective date of this rule.**

(e) For new NO<sub>x</sub> budget units that commenced operation, or are projected to commence operation, on or after May 1, 2000, or for projects that reduce NO<sub>x</sub> emissions through the implementation of energy efficiency or renewable energy measures, or both, implemented during an ozone control period beginning May 1, 2004, the department shall allocate NO<sub>x</sub> allowances in accordance with the following procedures:

(1) The department shall establish allocation set-asides for new NO<sub>x</sub> budget units and for energy efficiency and renewable energy projects for each ozone control period as follows:

(A) The new unit allocation set-asides shall be allocated NO<sub>x</sub> allowances equal to the following:

- (i) For EGUs, two thousand two hundred ninety-eight (2,298) tons (five percent (5%) of EGU budget) for each ozone control period in 2004 through 2009, and nine hundred nineteen (919) tons (two percent (2%) of the EGU budget) for each ozone control period thereafter.
- (ii) For large affected units, ninety-eight (98) tons (one percent (1%) of the large affected unit budget) in

2004 and each year thereafter.

(B) The energy efficiency and renewable energy allocation set-aside shall be allocated  $\text{NO}_x$  allowances equal to one thousand one hundred fifteen (1,115) tons (two percent (2%) of overall trading budget).

(2) The  $\text{NO}_x$  authorized account representative of a new  $\text{NO}_x$  budget unit or a general account may submit to the department a request, in writing or in a format specified by the department, for  $\text{NO}_x$  allowances as follows:

(A) For a new  $\text{NO}_x$  budget unit, for one (1) ozone control period under subsection (b), during which the  $\text{NO}_x$  budget unit commenced, or is projected to commence, operation. The  $\text{NO}_x$  authorized account representative shall reapply each year until the  $\text{NO}_x$  budget unit is eligible to use  $\text{NO}_x$  allowances allocated under subsection (d).

(B) For energy efficiency or renewable energy projects, project sponsors may request the reservation of  $\text{NO}_x$  allowances, for one (1) control period in which the project is implemented. The  $\text{NO}_x$  authorized account representative may reapply each year, not to exceed five (5) ozone control periods. Requests for allowances may be made only for projects implemented within two (2) years of the beginning of the first ozone control period for which allowances are requested. Projects must equal at least one (1) ton of  $\text{NO}_x$  emissions, and multiple projects may be aggregated into one (1) allowance allocation request to equal one (1) or more tons of  $\text{NO}_x$  emissions.

The  $\text{NO}_x$  allowance allocation request must be submitted by September 1 of the calendar year that is one (1) year in advance of the first ozone control period for which the  $\text{NO}_x$  allowance allocation is requested and for new  $\text{NO}_x$  budget units, after the date on which the department issues a permit to construct the  $\text{NO}_x$  budget unit and final approval is granted from the Indiana utility regulatory commission.

(3) In a  $\text{NO}_x$  allowance allocation request under this subsection, the  $\text{NO}_x$  authorized account representative may request for an ozone control period,  $\text{NO}_x$  allowances in an amount that does not exceed the following:

(A) For an electricity generating unit, multiplying:

(i) fifteen-hundredths (0.15) pound per million British thermal units or the allowable emission rate as of the date that the unit becomes affected by this rule, whichever is more stringent, except that a coal-fired electrical generation unit with a rated energy efficiency of forty percent (40%) or higher, a repowered natural gas-fired electrical generating unit with a rated energy efficiency of forty-five percent (45%) or higher, a natural gas-fired electrical generating unit that is not repowered with a rated energy efficiency of fifty percent (50%) or higher, or a combined heat and power unit with an overall rated energy efficiency of sixty percent (60%) or higher shall be allocated allowances based on fifteen-hundredths (0.15) lb/MMBtu notwithstanding the allowable emission rate;

(ii) the  $\text{NO}_x$  budget unit's maximum design heat input in million British thermal units per hour for a unit that is:

(AA) permitted as a major stationary source or major modification under [326 IAC 2-2](#) or [326 IAC 2-3](#) and that is not a simple cycle system, seventy-five percent (75%) of the maximum design heat input;

(BB) not permitted as a major stationary source or major modification under [326 IAC 2-2](#) or [326 IAC 2-3](#) and that is a combined cycle system, fifty percent (50%) of the maximum design heat input; or

(CC) not permitted as a major stationary source or major modification under [326 IAC 2-2](#) or [326 IAC 2-3](#) and that is not combined cycle system or for a unit that is permitted as a major stationary source or major modification under [326 IAC 2-2](#) or [326 IAC 2-3](#) and that is a simple cycle system, twenty-five percent (25%) of the maximum design heat input; and

(iii) the number of hours remaining in the ozone control period starting with the first day in the ozone control period on which the unit operated or is projected to operate;

and dividing the product by two thousand (2,000) pounds per ton and rounded to the nearest ton. The  $\text{NO}_x$  allowances requested shall not exceed annual allowable  $\text{NO}_x$  emissions.

(B) For a large affected unit multiplying:

(i) the lesser of:

(AA) seventeen-hundredths (0.17) pound per million British thermal units; or

(BB) the allowable emission rate as of the date that the unit becomes affected by this rule, whichever is more stringent;

(ii) the  $\text{NO}_x$  budget unit's maximum design heat input in million British thermal units per hour; and

(iii) the number of hours remaining in the ozone control period starting with the first day in the ozone control period on which the unit operated or is projected to operate;

and dividing the product by two thousand (2,000) pounds per ton and rounded to the nearest ton. The  $\text{NO}_x$  allowances requested shall not exceed annual allowable  $\text{NO}_x$  emissions.

(C) For energy efficiency or renewable energy projects, the following:

(i) Projects in section 2(18)(A) of this rule that claim allowances based upon reductions in the consumption of electricity and that are sponsored by end-users or nonutility third parties receive allowances based upon the number of kilowatt hours of electricity saved during an ozone control period and the following formula:

$$\text{Allowances} = (\text{kWS} * 0.0015) / 2000$$

Where: Allowances = The number of allowances awarded to a project sponsor.

kWS = The number of kilowatt hours of electricity saved during an ozone control period by the project.

(ii) Projects in section 2(18)(A) of this rule that claim allowances based upon reductions in the consumption of electricity and that are sponsored by NO<sub>x</sub> allowance account holders that own or operate units that produce electricity and are subject to the emission limitations of this rule will be awarded allowances according to the following formula:

$$\text{Allowances} = (\text{kWS} * 0.000375) / 2000 \quad \mathbf{0.00075 / 2000}$$

Where: Allowances = The number of allowances awarded to a project sponsor.

kWS = The number of kilowatt hours of electricity saved during an ozone control period by the project.

(iii) Projects in section 2(18)(A) of this rule that claim allowances based upon reductions in the consumption of energy other than electricity and that are not NO<sub>x</sub> budget units will be awarded allowances according to the following formula:

$$\text{Allowances} = (((\text{Et1}/\text{Pt1}) - (\text{Et2}/\text{Pt2})) \times \text{Pt2} \times \text{NPt2} \times (\text{NPt1}/\text{NPt2})) / 2000$$

Where: Allowances = The number of allowances awarded to a project sponsor.

Et1 = Energy consumed per ozone control period prior to project implementation.

Pt1 = Units of product produced per ozone control period prior to project implementation.

Et2 = Energy consumed in the most recent ozone control period.

Pt2 = Units of product produced in the most recent ozone control period.

NPt1 = NO<sub>x</sub> produced during the consumption of energy, measured in pounds per million British thermal units prior to project implementation.

NPt2 = NO<sub>x</sub> produced during the consumption of energy, measured in pounds per million British thermal units in the most recent ozone control period.

(iv) Projects in section 2(18)(A) of this rule that claim allowances based upon reductions in the consumption of energy other than electricity and that are NO<sub>x</sub> budget units will be awarded allowances according to the following formula:

$$\text{Allowances} = (((\text{Et1}/\text{Pt1}) - (\text{Et2}/\text{Pt2})) \times \text{Pt2} \times \text{NPt2} \times (\text{NPt1}/\text{NPt2}) \times 0.25) / 2000 \quad \mathbf{0.50 / 2000}$$

Where: Allowances = The number of allowances awarded to a project sponsor.

Et1 = Energy consumed per ozone control period prior to project implementation.

Pt1 = Units of product produced per ozone control period prior to project implementation.

Et2 = Energy consumed in the most recent ozone control period.

Pt2 = Units of product produced in the most recent ozone control period.

NPt1 = NO<sub>x</sub> produced during the consumption of energy, measured in pounds per million British thermal units prior to project implementation.

NPt2 = NO<sub>x</sub> produced during the consumption of energy, measured in pounds per million British thermal units in the most recent ozone control period.

Product produced, as used in the formulas in this item and item (iii), may include manufactured items; raw, intermediate, or final materials; or other products measured in discrete units and produced as a result of the consumption of energy in a specific process or piece of equipment. Claims for allowances must include documentation of NO<sub>x</sub> emissions per British thermal unit both before and after implementation of the project for the energy-consuming process for which energy savings are claimed.

(v) Projects in section 2(18)(B) of this rule that claim allowances based upon highly efficient electricity generation using systems such as combined cycle, microturbines, and fuel cell systems for the predominant use of a single end-user that meet the thresholds specified in section 2(18)(B) of this rule, that are not electric generating units or large affected units as defined in section 2 of this rule, and that are sponsored by end-users or nonutility third parties receive allowances based upon the net amount of electricity generated during an ozone control period and the following formula:

$$\text{Allow} = (\text{kWG} \times (0.0015 - \text{NO}_x)) / 2000$$

Where: Allow = The number of allowances awarded to a project sponsor.

kWG = The number of net kilowatt hours of electricity generated during an ozone control period by the project.

NO<sub>x</sub> = The amount of NO<sub>x</sub> produced during the generation of electricity measured in pounds per kilowatt hour.



(vi) Projects in section 2(18)(B) of this rule that claim allowances based upon highly efficient combined heat and power systems for the predominant use of a single end-user that meet the thresholds specified in section 2(18)(B) of this rule, that are not electric generating units or large affected units as defined in section 2 of this rule, and that are sponsored by end-users or nonutility third parties receive allowances based upon the net amount of energy generated and used during an ozone control period and the following formula:

Where:

$$\text{Allow} = (\text{NO}_x \text{ convt} - \text{NO}_x \text{ CHP}) / 2,000$$

Allow = The number of allowances awarded to a project sponsor.

$$\text{NO}_x \text{ convt} = [(0.15 \times 3,412 \times \text{kWG} / 0.34) + (0.17 \times \text{HeatOut} / 0.8)] / 1,000,000$$

$$\text{NO}_x \text{ CHP} = (\text{BtuIn} \times \text{NO}_x \text{ Rate}) / 1,000,000$$

kWG = The number of net kilowatt hours of electricity generated during an ozone control period by the project.

BtuIn = The number of British thermal units (Btu) of fuel used to produce electricity, heat, or steam during an ozone control period by the project.

NO<sub>x</sub> Rate = NO<sub>x</sub> emitted during normal system operation by the project measured in pounds per million Btu of fuel input.

(vii) Projects in section ~~2(18)(D)~~ **2(18)(B) and 2(18)(G)** of this rule receive allowances based upon the number of kilowatt hours of electricity each project generates during an ozone control period. Highly efficient electricity generation projects using systems such as combined cycle, microturbines, and fuel cell systems for the predominant use of a single end-user that meet a rated energy efficiency threshold of sixty percent (60%) for combined cycle systems and forty percent (40%) for microturbines and fuel cells and that are sponsored by NO<sub>x</sub> allowance account holders that own or operate units that produce electricity and are subject to the emission limitations of this rule will receive allowances based upon the net amount of electricity generated during an ozone control period and the following formula:

$$\text{Allowances} = (\text{kWG} * (0.0015 - \text{NO}_x)) * \text{0.25} / 2000 \text{ } \mathbf{0.50/2000}$$

Where: Allowances = The number of allowances awarded to a project sponsor.

kWG = The number of net kilowatt hours of electricity generated during an ozone control period by the project.

NO<sub>x</sub> = The amount of NO<sub>x</sub> produced during the generation of electricity measured in pounds per kilowatt hour.

(viii) Projects in section 2(18)(C) and 2(18)(D) of this rule receive allowances based upon the number of kilowatt hours of electricity each project generates during an ozone control period and according to the following formula:

$$\text{Allowances} = (\text{kWG} * 0.0015) / 2000$$

Where: Allowances = The number of allowances awarded to a project sponsor.

kWG = The number of kilowatt hours of electricity generated during an ozone control period by the project.

(ix) Projects in section 2(18)(E) and 2(18)(F) of this rule receive allowances based upon the difference in emitted NO<sub>x</sub> per megawatt hour of operation for units before and after replacement or improvement and according to the following formula:

$$\text{Allowances} = ((\text{Et1} - \text{Et2}) * h) * \text{0.25} / 2000 \text{ } \mathbf{0.50/2000}$$

Where: Allowances = The number of allowances awarded to a project sponsor.

Et1 = The emission rate in pounds per megawatt hour of NO<sub>x</sub> of the unit before improvement or replacement.

Et2 = The emission rate in pounds per megawatt hour of NO<sub>x</sub> of the unit after improvement or replacement.

h = The number of megawatt hours of operation during the ozone control period.

**(x) Projects in section 2(18)(A) of this rule that claim allowances based upon reductions in the consumption of electricity and that are large affected units shall be awarded allowances according to the following formula:**

$$\text{Allowances} = (\text{kWS} \times \text{NO}_x \times 0.5) / 2,000$$

Where: Allowances = The number of allowances awarded to a project sponsor.

**kWS** = The number of kilowatt hours of electricity saved during a control period by the project.

**NO<sub>x</sub>** = The amount of NO<sub>x</sub> produced during the generation of electricity, measured in pounds per kilowatt hour.

(xi) Projects in section 2(18)(A) of this rule based upon energy efficiency other than electricity savings shall be awarded allowances according to the following formula:

$$\text{Allowances} = (\text{NO}_x \text{ Rate} \times \text{HeatOut} / 0.8) / 1,000,000 / 2,000$$

Where: **Allowances** = The number of allowances awarded to a project sponsor.

**NO<sub>x</sub> Rate** = 0.17 lb/MMBtu or the actual NO<sub>x</sub> emission rate, whichever is greater.

**HeatOut** = The number of British thermal units (Btu) of heat or steam effectively used for space, water, or industrial process heat during a control period by the project.

(xii) Projects in section 2(18)(H) of this rule using renewable fuels to displace coal, natural gas, or oil combustion and reduce NO<sub>x</sub> emissions shall be awarded allowances according to the following formula:

$$\text{Allowances} = ((0.17 \times \text{Fuel-Input}) / 1,000,000) / 2,000$$

Where: **Allowances** = The number of allowances awarded to a project sponsor.

**Fuel-Input** = The amount of heat input, in Btu, from the renewable fuel.

(xiii) Projects in section 2(18)(B) of this rule that claim allowances based upon highly efficient combined heat and power systems for the predominant use of a single end user, that meet the thresholds specified in section 2(18)(B) of this rule, that are large affected units as defined in section 2 of this rule, receive allowances based upon the net amount of energy generated and used during a control period and the following formula:

$$\text{Allowances} = ((\text{NO}_x \text{ conventional} - \text{NO}_x \text{ CHP}) / 2,000) \times 0.5$$

Where: **Allowances** = The number of allowances awarded to a project sponsor.

**NO<sub>x</sub> conventional** =  $[(0.15 \times 3,412 \times \text{kWG} / 0.34) + (0.17 \times \text{HeatOut} / 0.8)] / 1,000,000$

**NO<sub>x</sub> CHP** =  $(\text{BtuIn} \times \text{NO}_x \text{ Rate}) / 1,000,000$

Where: **kWG** = The number of net kilowatt hours of electricity generated during a control period by the project.

**HeatOut** = The number of British thermal units (Btu) of heat or steam effectively used for space, water, or industrial process heat during a control period by the project.

**NO<sub>x</sub> Rate** = NO<sub>x</sub> emitted during normal system operation by the project, measured in pounds per million Btu of fuel input.

**BtuIn** = The number of British thermal units (Btu) of fuel used to produce electricity, heat, or steam during a control period by the project.

Allowances will be awarded only after verification of project implementation and certification of energy, emission, or electricity savings, as appropriate. The department will consult the Indiana department of commerce concerning verification and certification.

(4) The department shall review, and allocate NO<sub>x</sub> allowances pursuant to, each NO<sub>x</sub> allowance allocation request by December 31 of each year as follows:

(A) Upon receipt of the NO<sub>x</sub> allowance allocation request, the department shall determine whether and shall make any necessary adjustments to the request to ensure that for:

(i) electricity generating units, the ozone control period and the number of allowances specified are consistent with the requirements of subdivision (3)(A);

(ii) large affected units, the ozone control period and the number of allowances specified are consistent with the requirements of subdivision (3)(B);

(iii) energy efficiency and renewable energy projects, the number of allowances specified are consistent with the requirements of subdivision (3)(C); and

(iv) units exempt under section 1(b) of this rule, the department will determine the sum of the NO<sub>x</sub> emission limitations (in tons of NO<sub>x</sub>) on which the unit's exemption under section 1(b) of this rule is based.

(B) The department shall allocate allowances to all qualifying energy efficiency and renewable energy projects prior to allocating allowances to any new NO<sub>x</sub> budget unit. For energy efficiency and renewable energy projects, the department shall give first priority to projects under section 2(18)(A), 2(18)(C), and 2(18)(D), and 2(18)(H) of this rule, second priority to projects under section 2(18)(B) and 2(18)(G) of this rule, third priority to projects under section 2(18)(E) of this rule, and fourth priority to projects under section

2(18)(F) of this rule.

(C) If the energy efficiency and renewable energy allocation set-aside for the ozone control period for which NO<sub>x</sub> allowances are requested has an amount of NO<sub>x</sub> allowances greater than or equal to the number requested, as adjusted under clause (A), the department shall allocate the amount of the NO<sub>x</sub> allowances requested, as adjusted under clause (A), to the energy efficiency and renewable energy projects. Any unallocated allowances shall be distributed as follows:

(i) Fifty percent (50%) of the unallocated allowances shall remain in the set-aside for use in the next year's allocation.

(ii) Fifty percent (50%) of the unallocated allowances shall be returned to existing large affected units on a pro rata basis.

(D) If the energy efficiency and renewable energy allocation set-aside for the ozone control period for which NO<sub>x</sub> allowances are requested has an amount of NO<sub>x</sub> allowances less than the number requested, as adjusted under clause (A), the department shall allocate the allocation set-aside on a pro rata basis, except that allowances requested for projects under section 2(18)(A), 2(18)(C), and 2(18)(D), and **2(18)(H)** of this rule shall be allocated first, allocated to projects under section 2(18)(B) and **2(18)(G)** of this rule second, allocated to projects under section 2(18)(E) of this rule third, and allocated to projects under section 2(18)(F) of this rule fourth.

(E) If the new unit allocation set-aside for the ozone control period for which NO<sub>x</sub> allowances are requested, less the amount under clause (A)(iv), has an amount of NO<sub>x</sub> allowances greater than or equal to the number requested, as adjusted under clause (A), the department shall allocate the amount of the NO<sub>x</sub> allowances requested, as adjusted under clause (A), to the NO<sub>x</sub> budget unit. If the energy efficiency and renewable energy set-aside is oversubscribed in clause (D), the remaining allowances shall be transferred to the energy efficiency and renewable energy set-aside. If the energy efficiency and renewable energy set-aside is under subscribed in clause (C), the remaining allowances shall be transferred to existing sources on a pro rata basis.

(F) If the new unit allocation set-aside for the ozone control period for which NO<sub>x</sub> allowances are requested, less the amount under clause (A)(iv), has an amount of NO<sub>x</sub> allowances less than the number requested, as adjusted under clause (A), the department shall allocate the allocation set-aside to the NO<sub>x</sub> budget units on a pro rata basis.

(G) After a new budget unit has operated in one (1) ozone control period, it becomes an existing budget unit unless a notification has been received under subsection (i) requesting allocations under this subsection, and the department will allocate allowances for the ozone control period according to subsections (b) and (d). The unit will continue to receive allowances from the new unit set-aside according to subdivision (3) until it is eligible to use allowances allocated under subsection (d).

By December 31 of each year, the department shall take appropriate action under subdivision (4) and notify the NO<sub>x</sub> authorized account representative that submitted the request and the U.S. EPA of the number of NO<sub>x</sub> allowances allocated for the ozone control period to the NO<sub>x</sub> budget unit or energy efficiency or renewable energy projects.

(f) For a new NO<sub>x</sub> budget unit that is allocated NO<sub>x</sub> allowances under subsection (e) for an ozone control period, the U.S. EPA will deduct NO<sub>x</sub> allowances under section 10(k)(1) or 10(k)(8) of this rule to account for the actual emissions of the unit during the ozone control period. Any allowances remaining in the account shall be returned to the new source unit set-aside.

(g) After making the deductions for compliance under section 10(k)(1) or 10(k)(8) of this rule for an ozone control period, the U.S. EPA will notify the department whether any NO<sub>x</sub> allowances remain in the allocation set-asides for the ozone control period. Any NO<sub>x</sub> allowances remaining in the new unit allocation set-asides shall remain in the new unit allocation set-aside for use in the next year's allocation.

(h) If the number of banked allowances in the new unit set-asides or the energy efficiency set-aside is greater than:

(1) for the EGU new unit set-aside, three thousand four hundred thirteen (3,413) tons for each year in 2004 through 2009 and two thousand thirty-four (2,034) tons each year thereafter; or

(2) for the large affected new unit set-aside, one thousand two hundred thirteen (1,213) tons in 2004 and each year thereafter; or

(3) for energy efficiency and renewable energy set-aside, two thousand two hundred thirty (2,230) tons in 2004 and each year thereafter;

any banked allowances in excess of the values in subsection (e)(1)(A) or (e)(1)(B) shall be allocated to the relevant existing NO<sub>x</sub> budget units on a pro rata basis. The allowances from the energy efficiency and renewable energy set-aside shall be allocated to existing large affected units.

(i) A new EGU that commenced operation on or after May 1, 2000, has the option to remain in the new unit set-aside and have allowances allocated in accordance with subsection (e) until such time that it has heat input data for at least two (2) full ozone control periods, but not more than five (5) full ozone control periods for the purpose of determining heat input under subsection (c). The new NO<sub>x</sub> budget unit shall submit a notification to the department by no later than December 1 of the year prior to the allocation schedule in subsection (b) indicating the unit is to receive NO<sub>x</sub> allowances in accordance with subsection (e).

\*This document is incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.

(Air Pollution Control Board; [326 IAC 10-4-9](#); filed Aug 17, 2001, 3:45 p.m.: 25 IR 32; errata filed Nov 29, 2001, 12:20 p.m.: 25 IR 1183; filed Jul 7, 2003, 4:00 p.m.: 26 IR 3558; filed Jan 27, 2006, 11:25 a.m.: 29 IR 1886)

SECTION 4. [326 IAC 10-4-16](#) IS ADDED TO READ AS FOLLOWS:

**[326 IAC 10-4-16](#) Sunset**

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

**Sec. 16.** Sections 1 through 15 of this rule shall not apply to any control period in 2009 or thereafter. The 2009 NO<sub>x</sub> allowances allocated under section 9 of this rule remain in effect for purposes of the Clean Air Interstate Rule (CAIR) NO<sub>x</sub> ozone season trading program in [326 IAC 24-3](#).

(Air Pollution Control Board; [326 IAC 10-4-16](#))

SECTION 5. [326 IAC 24](#) IS ADDED TO READ AS FOLLOWS:

**ARTICLE 24. NITROGEN OXIDES (NO<sub>x</sub>) AND SULFUR DIOXIDE (SO<sub>2</sub>) TRADING PROGRAMS**

**Rule 1. Clean Air Interstate Rule Nitrogen Oxides Annual Trading Program**

**[326 IAC 24-1-1](#) Applicability**

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

**Sec. 1. (a)** This rule establishes an annual NO<sub>x</sub> emissions budget and annual NO<sub>x</sub> trading program. The following units shall be clean air interstate rule (CAIR) NO<sub>x</sub> units, and any source that includes one (1) or more such units shall be a CAIR NO<sub>x</sub> source, and shall be subject to the requirements of this rule, except as provided in subsection (b):

(1) Any stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine serving at any time, since the later of November 15, 1990 or the start-up of the unit's combustion chamber, a generator with nameplate capacity of more than twenty-five (25) megawatt electrical producing electricity for sale.

(2) If a stationary boiler or stationary combustion turbine that, under subdivision (1), is not a CAIR NO<sub>x</sub> unit begins to combust fossil fuel or to serve a generator with nameplate capacity of more than twenty-five (25) megawatt electrical producing electricity for sale, the unit shall become a CAIR NO<sub>x</sub> unit as provided in subdivision (1) on the first date on which it both combusts fossil fuel and serves such generator.

**(b)** Units that meet the requirements set forth in subdivision (1), (2), or (3) shall not be CAIR NO<sub>x</sub> units as follows:

(1) Any unit that is a CAIR NO<sub>x</sub> unit under subsection (a):

(A) qualifying as a cogeneration unit during the twelve (12) month period starting on the date the unit first produces electricity and continuing to qualify as a cogeneration unit; and

(B) not serving at any time, since the later of November 15, 1990 or the start-up of the unit's combustion chamber, a generator with nameplate capacity of more than twenty-five (25) megawatt electrical, supplying in any calendar year more than one-third (1/3) of the unit's potential electric output capacity or two hundred nineteen thousand (219,000) megawatt hours, whichever is greater, to any utility power distribution system for sale.

If a unit qualifies as a cogeneration unit during the twelve (12) month period starting on the date the unit first produces electricity and meets the requirements of this subdivision for at least one (1) calendar year, but subsequently no longer meets all such requirements, the unit shall become a CAIR NO<sub>x</sub> unit starting on the earlier of January 1 after the first calendar year during which the unit no longer qualifies as a cogeneration unit or January 1 after the first calendar year during which the unit no longer meets the requirements of clause (B).

(2) Any unit that is a CAIR NO<sub>x</sub> unit under subsection (a) commencing operation before January 1, 1985:

(A) qualifying as a solid waste incineration unit; and

(B) with an average annual fuel consumption of nonfossil fuel for 1985-1987 exceeding eighty percent (80%), on a British thermal units basis, and an average annual fuel consumption of nonfossil fuel for any three (3) consecutive calendar years after 1990 exceeding eighty percent (80%), on a British thermal units basis.

(3) Any unit that is a CAIR NO<sub>x</sub> unit under subsection (a) commencing operation on or after January 1, 1985:

(A) qualifying as a solid waste incineration unit; and

(B) with an average annual fuel consumption of nonfossil fuel for the first three (3) calendar years of operation exceeding eighty percent (80%), on a British thermal units basis, and an average annual fuel consumption of nonfossil fuel for any three (3) consecutive calendar years after 1990 exceeding eighty percent (80%), on a British thermal units basis.

(4) If the unit qualifies as a solid waste incineration unit and meets the requirements of subdivision (2) or (3) for at least three (3) consecutive calendar years, but subsequently no longer meets all such requirements, the unit shall become a CAIR NO<sub>x</sub> unit starting on the earlier of January 1 after the first calendar year during which the unit no longer qualifies as a solid waste incineration unit or January 1 after the first three (3) consecutive calendar years after 1990 for which the unit has an average annual fuel consumption of fossil fuel of twenty percent (20%) or more.

(Air Pollution Control Board; [326 IAC 24-1-1](#))

### [326 IAC 24-1-2](#) Definitions

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-11-2](#); [IC 13-15](#); [IC 13-17](#)

Sec. 2. For purposes of this rule, the definition given for a term in this rule shall control in any conflict between [326 IAC 1-2](#) and this rule. In addition to the definitions provided in [IC 13-11-2](#) and [326 IAC 1-2](#), the following definitions apply throughout this rule, unless expressly stated otherwise or unless the context clearly implies otherwise:

(1) "Account number" means the identification number given by the U.S. EPA to each CAIR NO<sub>x</sub> allowance tracking system account.

(2) "Acid rain emissions limitation" means a limitation on emissions of sulfur dioxide or nitrogen oxides under the acid rain program.

(3) "Acid rain program" means a multistate sulfur dioxide and nitrogen oxides air pollution control and emission reduction program established by the U.S. EPA under Title IV of the Clean Air Act and 40 CFR Parts 72 through 78\*.

(4) "Allocate" or "allocation" means, with regard to CAIR NO<sub>x</sub> allowances, the determination by the department or the U.S. EPA of the amount of such CAIR NO<sub>x</sub> allowances to be initially credited to a CAIR NO<sub>x</sub> unit, a new unit set-aside, or other entity.

(5) "Allowance transfer deadline" means, for a control period, midnight of March 1 (if it is a business day), or midnight of the first business day thereafter (if March 1 is not a business day), immediately following the control period, and is the deadline by which a CAIR NO<sub>x</sub> allowance transfer must be submitted for recordation in a CAIR NO<sub>x</sub> source's compliance account in order to be used to meet the



source's CAIR NO<sub>x</sub> emissions limitation for such control period in accordance with section 9(i) and 9(j) of this rule.

(6) "Alternate CAIR designated representative" means, for a CAIR NO<sub>x</sub> source and each CAIR NO<sub>x</sub> unit at the source, the natural person who is authorized by the owners and operators of the source and all such units at the source, in accordance with sections 6 through 12 of this rule, to act on behalf of the CAIR designated representative in matters pertaining to the CAIR NO<sub>x</sub> annual trading program. If the CAIR NO<sub>x</sub> source is also a CAIR SO<sub>2</sub> source, then this natural person shall be the same person as the alternate CAIR designated representative under the CAIR SO<sub>2</sub> trading program. If the CAIR NO<sub>x</sub> source is also a CAIR NO<sub>x</sub> ozone season source, then this natural person shall be the same person as the alternate CAIR designated representative under the CAIR NO<sub>x</sub> ozone season trading program. If the CAIR NO<sub>x</sub> source is also subject to the acid rain program, then this natural person shall be the same person as the alternate designated representative under the acid rain program. If the CAIR NO<sub>x</sub> source is also subject to the mercury budget trading program, then this natural person shall be the same person as the alternate mercury designated representative under the mercury budget trading program.

(7) "Automated data acquisition and handling system" or "DAHS" means that component of the continuous emission monitoring system, or other emissions monitoring system approved for use under section 11 of this rule, designed to interpret and convert individual output signals from pollutant concentration monitors, flow monitors, diluent gas monitors, and other component parts of the monitoring system to produce a continuous record of the measured parameters in the measurement units required by section 11 of this rule.

(8) "Boiler" means an enclosed fossil- or other-fuel-fired combustion device used to produce heat and to transfer heat to recirculating water, steam, or other medium.

(9) "Bottoming-cycle cogeneration unit" means a cogeneration unit in which the energy input to the unit is first used to produce useful thermal energy and at least some of the reject heat from the useful thermal energy application or process is then used for electricity production.

(10) "CAIR authorized account representative" means, with regard to a general account, a responsible natural person who is authorized, in accordance with sections 6, 9, and 12 of this rule, to transfer and otherwise dispose of CAIR NO<sub>x</sub> allowances held in the general account and, with regard to a compliance account, the CAIR designated representative of the source.

(11) "CAIR designated representative" means, for a CAIR NO<sub>x</sub> source and each CAIR NO<sub>x</sub> unit at the source, the natural person who is authorized by the owners and operators of the source and all such units at the source, in accordance with sections 6 and 12 of this rule, to represent and legally bind each owner and operator in matters pertaining to the CAIR NO<sub>x</sub> annual trading program. If the CAIR NO<sub>x</sub> source is also a CAIR SO<sub>2</sub> source, then this natural person shall be the same person as the CAIR designated representative under the CAIR SO<sub>2</sub> trading program. If the CAIR NO<sub>x</sub> source is also a CAIR NO<sub>x</sub> ozone season source, then this natural person shall be the same person as the CAIR designated representative under the CAIR NO<sub>x</sub> ozone season trading program. If the CAIR NO<sub>x</sub> source is also subject to the acid rain program, then this natural person shall be the same person as the designated representative under the acid rain program. If the CAIR NO<sub>x</sub> source is also subject to the mercury budget trading program, then this natural person shall be the same person as the mercury designated representative under the mercury budget trading program.

(12) "CAIR NO<sub>x</sub> allowance" means a limited authorization issued by the department or the U.S. EPA under section 8 or 12(j) of this rule to emit one (1) ton of nitrogen oxides during a control period of the specified calendar year for which the authorization is allocated or of any calendar year thereafter under the CAIR NO<sub>x</sub> program. An authorization to emit nitrogen oxides that is not issued under provisions of a state implementation plan (SIP) that are approved under 40 CFR 51.123(o)(1) or 40 CFR 51.123(o)(2)\* shall not be a CAIR NO<sub>x</sub> allowance.

(13) "CAIR NO<sub>x</sub> allowance deduction" or "deduct CAIR NO<sub>x</sub> allowances" means the permanent withdrawal of CAIR NO<sub>x</sub> allowances by the U.S. EPA from a compliance account, for example, in order to account for a specified number of tons of total nitrogen oxides emissions from all CAIR NO<sub>x</sub> units at a CAIR NO<sub>x</sub> source for a control period, determined in accordance with section 11 of this rule, or to account for excess emissions.

(14) "CAIR NO<sub>x</sub> allowances held" or "hold CAIR NO<sub>x</sub> allowances" means the CAIR NO<sub>x</sub> allowances recorded by the U.S. EPA, or submitted to the U.S. EPA for recordation, in accordance with sections 9, 10, and 12 of this rule, in a CAIR NO<sub>x</sub> allowance tracking system account.

(15) "CAIR NO<sub>x</sub> allowance tracking system" means the system by which the U.S. EPA records allocations, deductions, and transfers of CAIR NO<sub>x</sub> allowances under the CAIR NO<sub>x</sub> annual trading program. Such allowances will be allocated, held, deducted, or transferred only as whole allowances.

(16) "CAIR NO<sub>x</sub> allowance tracking system account" means an account in the CAIR NO<sub>x</sub> allowance tracking system established by the U.S. EPA for purposes of recording the allocation, holding, transferring, or deducting of CAIR NO<sub>x</sub> allowances.

- (17) "CAIR NO<sub>x</sub> annual trading program" means a multistate nitrogen oxides air pollution control and emission reduction program approved and administered by the U.S. EPA in accordance with this rule, 40 CFR 96\*, and 40 CFR 51.123\* or established by the U.S. EPA in accordance with 40 CFR 97, Subparts AA through II\* and 40 CFR 51.123(p)\* and 40 CFR 52.35\*, as a means of mitigating interstate transport of fine particulates and nitrogen oxides.
- (18) "CAIR NO<sub>x</sub> emissions limitation" means, for a CAIR NO<sub>x</sub> source, the tonnage equivalent, in NO<sub>x</sub> emissions in a control period, of the CAIR NO<sub>x</sub> allowances available for deduction for the source under section 9(i) and 9(j) of this rule for the control period.
- (19) "CAIR NO<sub>x</sub> ozone season source" means a source that is subject to the CAIR NO<sub>x</sub> ozone season trading program.
- (20) "CAIR NO<sub>x</sub> ozone season trading program" means a multistate nitrogen oxides air pollution control and emission reduction program approved and administered by the U.S. EPA in accordance with [326 IAC 24-3](#), 40 CFR 96\*, and 40 CFR 51.123\* or established by the U.S. EPA in accordance with 40 CFR 97, Subparts AAAA through IIII\* and 40 CFR 51.123(ee)\* and 40 CFR 52.35\*, as a means of mitigating interstate transport of ozone and nitrogen oxides.
- (21) "CAIR NO<sub>x</sub> source" means a source that is subject to the CAIR NO<sub>x</sub> annual trading program.
- (22) "CAIR NO<sub>x</sub> unit" means a unit that is subject to the CAIR NO<sub>x</sub> annual trading program under section 1 of this rule and, except for purposes of sections 3 and 8 of this rule, a CAIR NO<sub>x</sub> opt-in unit under section 12 of this rule.
- (23) "CAIR permit" means the legally binding and federally enforceable written document, or portion of such document, issued by the department under section 7 of this rule, including any permit revisions, specifying the CAIR NO<sub>x</sub> annual trading program requirements applicable to a CAIR NO<sub>x</sub> source, to each CAIR NO<sub>x</sub> unit at the source, and to the owners and operators and the CAIR designated representative of the source and each such unit.
- (24) "CAIR SO<sub>2</sub> source" means a source that is subject to the CAIR SO<sub>2</sub> trading program.
- (25) "CAIR SO<sub>2</sub> trading program" means a multistate sulfur dioxide air pollution control and emission reduction program approved and administered by the U.S. EPA in accordance with [326 IAC 24-2](#), 40 CFR 96\*, and 40 CFR 51.124\* or established in accordance with 40 CFR 97, Subparts AAA through III and 40 CFR 51.124\* and 40 CFR 52.36\*, as a means of mitigating interstate transport of fine particulates and sulfur dioxide.
- (26) "Coal" means any solid fuel classified as anthracite, bituminous, subbituminous, or lignite.
- (27) "Coal-derived fuel" means any fuel, whether in a solid, liquid, or gaseous state, produced by the mechanical, thermal, or chemical processing of coal.
- (28) "Coal-fired" means:
- (A) except for purposes of section 8 of this rule, combusting any amount of coal or coal-derived fuel, alone or in combination with any amount of any other fuel, during any year; or
  - (B) for purposes of section 8 of this rule, combusting any amount of coal or coal-derived fuel, alone or in combination with any amount of any other fuel, during a specified year.
- (29) "Cogeneration unit" means a stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine:
- (A) having equipment used to produce electricity and useful thermal energy for industrial, commercial, heating, or cooling purposes through the sequential use of energy; and
  - (B) producing during the twelve (12) month period starting on the date the unit first produces electricity and during any calendar year after the calendar year in which the unit first produces electricity.
- (i) For a topping-cycle cogeneration unit:
    - (AA) useful thermal energy not less than five percent (5%) of total energy output; and
    - (BB) useful power that, when added to one-half (½) of useful thermal energy produced, is not less than forty-two and one-half percent (42.5%) of total energy input, if useful thermal energy produced is fifteen percent (15%) or more of total energy output, or not less than forty-five percent (45%) of total energy input, if useful thermal energy produced is less than fifteen percent (15%) of total energy output.
  - (ii) For a bottoming-cycle cogeneration unit, useful power not less than forty-five percent (45%) of total energy input.
- (30) "Combustion turbine" means:
- (A) an enclosed device comprising a compressor, a combustor, and a turbine and in which the flue gas resulting from the combustion of fuel in the combustor passes through the turbine, rotating the turbine; and
  - (B) if the enclosed device under clause (A) is combined cycle, any associated duct burner, heat recovery steam generator, and steam turbine.
- (31) "Commence commercial operation" means, with regard to a unit:

(A) to have begun to produce steam, gas, or other heated medium used to generate electricity for sale or use, including test generation, except as provided in sections 3 and 12(f)(10) of this rule, subject to the following:

(i) For a unit that is a CAIR NO<sub>x</sub> unit under section 1 of this rule on the later of November 15, 1990, or the date the unit commences commercial operation as defined in this clause and that subsequently undergoes a physical change (other than replacement of the unit by a unit at the same source) such date shall remain the unit's date of commencement of commercial operation of the unit, which shall continue to be treated as the same unit.

(ii) For a unit that is a CAIR NO<sub>x</sub> unit under section 1 of this rule on the later of November 15, 1990, or the date the unit commences commercial operation as defined in this clause and that is subsequently replaced by a unit at the same source (for example, repowered), such date shall remain the replaced unit's date of commencement of commercial operation, and the replacement unit shall be treated as a separate unit with a separate date for commencement of commercial operation as defined in this clause or clause (B) as appropriate.

(B) Notwithstanding clause (A) and except as provided in section 3 of this rule, for a unit that is not a CAIR NO<sub>x</sub> unit under section 1 of this rule on the later of November 15, 1990, or the date the unit commences commercial operation as defined in clause (A), the unit's date for commencement of commercial operation shall be the date on which the unit becomes a CAIR NO<sub>x</sub> unit under section 1 of this rule, subject to the following:

(i) For a unit with a date for commencement of commercial operation as defined in this clause and that subsequently undergoes a physical change (other than replacement of the unit by a unit at the same source) such date shall remain the date of commencement of commercial operation of the unit, which shall continue to be treated as the same unit.

(ii) For a unit with a date for commencement of commercial operation as defined in this clause and that is subsequently replaced by a unit at the same source (for example, repowered), such date shall remain the replaced unit's date of commencement of commercial operation, and the replacement unit shall be treated as a separate unit with a separate date for commencement of commercial operation as defined in this clause or clause (A), as appropriate.

(32) "Commence operation" means the following:

(A) To have begun any mechanical, chemical, or electronic process, including, with regard to a unit, start-up of a unit's combustion chamber, except as provided in section 12(f)(10) of this rule.

(B) For a unit that undergoes a physical change (other than replacement of the unit by a unit at the same source) after the date the unit commences operation as defined in clause (A), such date shall remain the date of commencement of operation of the unit, which shall continue to be treated as the same unit.

(C) For a unit that is replaced by a unit at the same source (for example, repowered) after the date the unit commences operation as defined in clause (A), such date shall remain the replaced unit's date of commencement, and the replacement unit shall be treated as a separate unit with a separate date for commencement of operation as defined in this clause or clause (A) or (B), as appropriate, except as provided in section 12(f)(10) of this rule.

(33) "Common stack" means a single flue through which emissions from two (2) or more units are exhausted.

(34) "Compliance account" means a CAIR NO<sub>x</sub> allowance tracking system account, established by the U.S. EPA for a CAIR NO<sub>x</sub> source under section 9 or 12 of this rule, in which any CAIR NO<sub>x</sub> allowance allocations for the CAIR NO<sub>x</sub> units at the source are initially recorded and in which are held any CAIR NO<sub>x</sub> allowances available for use for a control period in order to meet the source's CAIR NO<sub>x</sub> emissions limitation in accordance with section 9(i) and 9(j) of this rule.

(35) "Continuous emission monitoring system" or "CEMS" means the equipment required under section 11 of this rule to sample, analyze, measure, and provide, by means of readings recorded at least once every fifteen (15) minutes, using an automated data acquisition and handling system (DAHS), a permanent record of nitrogen oxides emissions, stack gas volumetric flow rate, stack gas moisture content, and oxygen or carbon dioxide concentration, as applicable, in a manner consistent with 40 CFR 75\*. The following systems are the principal types of continuous emission monitoring systems required under section 11 of this rule:

(A) a flow monitoring system, consisting of a stack flow rate monitor and an automated data acquisition and handling system and providing a permanent, continuous record of stack gas volumetric flow rate, in standard cubic feet per hour (scfh);

(B) a nitrogen oxides concentration monitoring system, consisting of a NO<sub>x</sub> pollutant concentration monitor and an automated data acquisition and handling system and providing a permanent, continuous record of NO<sub>x</sub> emissions, in parts per million (ppm);

(C) a nitrogen oxides emission rate (or NO<sub>x</sub>-diluent) monitoring system, consisting of a NO<sub>x</sub>

pollutant concentration monitor, a diluent gas (CO<sub>2</sub> or O<sub>2</sub>) monitor, and an automated data acquisition and handling system and providing a permanent, continuous record of NO<sub>x</sub> concentration, in parts per million (ppm), diluent gas concentration, in percent CO<sub>2</sub> or O<sub>2</sub>, and NO<sub>x</sub> emission rate, in pounds per million British thermal units (lb/MMBtu);

(D) a moisture monitoring system, as defined in 40 CFR 75.11(b)(2)\* and providing a permanent, continuous record of the stack gas moisture content, in percent H<sub>2</sub>O;

(E) a carbon dioxide monitoring system, consisting of a CO<sub>2</sub> pollutant concentration monitor, or an oxygen monitor plus suitable mathematical equations from which the CO<sub>2</sub> concentration is derived, and an automated data acquisition and handling system and providing a permanent, continuous record of CO<sub>2</sub> emissions, in percent CO<sub>2</sub>; and

(F) an oxygen monitoring system, consisting of an O<sub>2</sub> concentration monitor and an automated data acquisition and handling system and providing a permanent, continuous record of O<sub>2</sub>, in percent O<sub>2</sub>.

(36) "Control period" means the period beginning January 1 of a calendar year, except as provided in section 4(c)(2) of this rule, and ending on December 31 of the same year, inclusive. For the purposes of section 8(h) of this rule, control period means January 1 through April 30 and October 1 through December 31 of the same calendar year.

(37) "Emissions" means air pollutants exhausted from a unit or source into the atmosphere, as measured, recorded, and reported to the U.S. EPA by the CAIR designated representative and as determined by the U.S. EPA in accordance with section 11 of this rule.

(38) "Energy efficiency or renewable energy projects" means any of the following implemented in Indiana:

(A) End-use energy efficiency projects, including demand-side management programs.

(B) Highly efficient electricity or steam generation for the predominant use of a single end user, such as combined cycle, combined heat and power, microturbines, and fuel cell systems. In order to be considered as highly efficient electricity generation under this clause, combined cycle, combined heat and power, microturbines, and fuel cell generating systems must meet or exceed one (1) of the following thresholds:

(i) For combined heat and power projects generating both electricity and thermal energy for space, water, or industrial process heat, rated energy efficiency of sixty percent (60%).

(ii) For microturbine projects rated at or below five hundred (500) kilowatts generating capacity, rated energy efficiency of forty percent (40%).

(iii) For combined cycle projects rated at greater than five hundred (500) kilowatts, rated energy efficiency of fifty percent (50%).

(iv) For fuel cell systems, rated energy efficiency of forty percent (40%), whether or not the fuel cell system is part of a combined heat and power energy system.

(C) Zero-emission renewable energy projects, including wind, photovoltaic, solar, and hydropower projects. Eligible hydropower projects are restricted to systems employing a head of ten (10) feet or less or systems employing a head greater than ten (10) feet that make use of a dam that existed before September 16, 2001.

(D) Energy efficiency projects generating electricity through the capture of methane gas from municipal solid waste landfills, water treatment plants, sewage treatment plants, or anaerobic digestion systems operating on animal or plant wastes.

(E) The installation of highly efficient electricity generation equipment for the sale of power where such equipment replaces or displaces retired electrical generating units. In order to be considered as highly efficient under this clause, generation equipment must meet or exceed the following energy efficiency thresholds:

(i) For coal-fired electrical generation units, rated energy efficiency of forty-two percent (42%).

(ii) For natural gas-fired electrical generating units, rated energy efficiency of fifty percent (50%).

(F) Improvements to existing fossil fuel-fired electrical generation units that increase the efficiency of the unit and decrease the heat rate used to generate electricity, including gas reburning projects that reduce NO<sub>x</sub> emissions.

(G) The installation of integrated gasification combined cycle equipment for producing electricity for sale.

(H) Renewable energy projects that displace the use of coal, natural gas, or oil through the use of a renewable fuel and reduce NO<sub>x</sub> emissions.

Energy efficiency or renewable energy projects do not include nuclear power projects. This definition is solely for the purposes of implementing this rule and does not apply in other contexts.

(39) "Excess emissions" means any ton of nitrogen oxides emitted by the CAIR NO<sub>x</sub> units at a CAIR NO<sub>x</sub> source during a control period that exceeds the CAIR NO<sub>x</sub> emissions limitation for the source.

(40) "FESOP" means a federally enforceable state operating permit issued under [326 IAC 2-8](#).

(41) "Fossil fuel" means natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel

derived from such material.

(42) "Fossil-fuel-fired" means, with regard to a unit, combusting any amount of fossil fuel in any calendar year.

(43) "Fuel oil" means any petroleum-based fuel (including diesel fuel or petroleum derivatives such as oil tar) and any recycled or blended petroleum products or petroleum byproducts used as a fuel whether in a liquid, solid, or gaseous state.

(44) "General account" means a CAIR NO<sub>x</sub> allowance tracking system account, established section 9 of this rule, that is not a compliance account.

(45) "Generator" means a device that produces electricity.

(46) "Gross electrical output" means, with regard to a cogeneration unit, electricity made available for use, including any such electricity used in the power production process. This process may include, but is not limited to, any on-site processing or treatment of fuel combusted at the unit and any on-site emission controls.

(47) "Heat input" means, with regard to a specified period of time, the product, in million British thermal units per unit of time (MMBtu/time) of the gross calorific value of the fuel, in British thermal units per pound (Btu/lb), divided by one million (1,000,000) British thermal units per million British thermal units (Btu/MMBtu) and multiplied by the fuel feed rate into a combustion device, in pounds of fuel per unit of time (lb of fuel/time), as measured, recorded, and reported to the U.S. EPA by the CAIR designated representative and determined by the U.S. EPA in accordance with section 11 of this rule and excluding the heat derived from preheated combustion air, recirculated flue gases, or exhaust from other sources.

(48) "Heat input rate" means the amount of heat input, in million British thermal units (MMBtu), divided by unit operating time, in hours, or, with regard to a specific fuel, the amount of heat input attributed to the fuel, in million British thermal units (MMBtu), divided by the unit operating time, in hours, during which the unit combusts the fuel.

(49) "Life-of-the-unit, firm power contractual arrangement" means a unit participation power sales agreement under which a utility or industrial customer reserves, or is entitled to receive, a specified amount or percentage of nameplate capacity and associated energy generated by any specified unit and pays its proportional amount of such unit's total costs, pursuant to a contract:

(A) for the life of the unit;

(B) for a cumulative term of no less than thirty (30) years, including contracts that permit an election for early termination; or

(C) for a period no less than twenty-five (25) years or seventy percent (70%) of the economic useful life of the unit determined as of the time the unit is built, with option rights to purchase or release some portion of the nameplate capacity and associated energy generated by the unit at the end of the period.

(50) "Maximum design heat input" means the maximum amount of fuel per hour, in British thermal units per hour (Btu/hr), that a unit is capable of combusting on a steady state basis as of the initial installation of the unit as specified by the manufacturer of the unit.

(51) "Mercury (Hg) budget trading program" means a multistate Hg air pollution control and emission reduction program approved and administered by the U.S. EPA in accordance with 40 CFR 60, Subpart HHHH\* and 40 CFR 60.24(h)(6)\*, or established by the U.S. EPA under the Clean Air Act, Section 111, as a means of reducing national mercury emissions.

(52) "Monitoring system" means any monitoring system that meets the requirements of section 11 of this rule, including a continuous emissions monitoring system, an alternative monitoring system, or an excepted monitoring system under 40 CFR 75\*.

(53) "Most stringent state or federal NO<sub>x</sub> emissions limitation" means, with regard to a unit, the lowest NO<sub>x</sub> emissions limitation, in terms of pounds per million British thermal units (lb/MMBtu), that is applicable to the unit under state or federal law, regardless of the averaging period to which the emissions limitation applies.

(54) "Nameplate capacity" means, starting from the initial installation of a generator, the maximum electrical generating output, in megawatt electrical (MWe), that the generator is capable of producing on a steady state basis and during continuous operation (when not restricted by seasonal or other deratings) as of such installation as specified by the manufacturer of the generator or, starting from the completion of any subsequent physical change in the generator resulting in an increase in the maximum electrical generating output, in megawatt electrical (MWe), that the generator is capable of producing on a steady state basis and during continuous operation (when not restricted by seasonal or other deratings) such increased maximum amount as of such completion as specified by the person conducting the physical change.

(55) "Oil-fired" means, for the purposes of section 8 of this rule, combusting fuel oil for more than fifteen percent (15%) of the annual heat input in a specified year and not qualifying as coal-fired.



(56) "Operator" means any person who operates, controls, or supervises a CAIR NO<sub>x</sub> unit or a CAIR NO<sub>x</sub> source and shall include, but not be limited to, any holding company, utility system, or plant manager of such a unit or source.

(57) "Owner" means any of the following persons:

(A) with regard to a CAIR NO<sub>x</sub> source or a CAIR NO<sub>x</sub> unit at a source, respectively:

(i) any holder of any portion<sup>x</sup> of the legal or equitable title in a CAIR NO<sub>x</sub> unit at the source or the CAIR NO<sub>x</sub> unit;

(ii) any holder of a leasehold interest in a CAIR NO<sub>x</sub> unit at the source or the CAIR NO<sub>x</sub> unit; or

(iii) any purchaser of power from a CAIR NO<sub>x</sub> unit at the source or the CAIR NO<sub>x</sub> unit under a life-of-the-unit, firm power contractual arrangement; provided that, unless expressly provided for in a leasehold agreement, owner shall not include a passive lessor, or a person who has an equitable interest through such lessor, whose rental payments are not based, either directly or indirectly, on the revenues or income from such CAIR NO<sub>x</sub> unit; or

(B) with regard to any general account, any person who has an ownership interest with respect to the CAIR NO<sub>x</sub> allowances held in the general account and who is subject to the binding agreement for the CAIR<sup>x</sup> authorized account representative to represent the person's ownership interest with respect to CAIR NO<sub>x</sub> allowances.

(58) "Potential electrical output capacity" means thirty-three percent (33%) of a unit's maximum design heat input, divided by three thousand four hundred thirteen (3,413) Btu/kilowatt hour, divided by one thousand (1,000) kilowatt hour/megawatt hour, and multiplied by eight thousand seven hundred sixty (8,760) hours/year.

(59) "Rated energy efficiency" means the percentage of gross energy input that is recovered as useable net energy output in the form of electricity or thermal energy, or both, that is used for heating, cooling, industrial processes, or other beneficial uses as follows:

(A) For electric generators, rated energy efficiency is calculated as one (1) net kilowatt hour (three thousand four hundred twelve (3,412) British thermal units) of electricity divided by the unit's design heat rate using the higher heating value of the fuel.

(B) For combined heat and power projects, rated energy efficiency is calculated using the following formula:

$$\text{Eff\%} = (\text{NEO} + \text{UTO})/\text{GEI}$$

Where:

Eff%	=	Rated energy efficiency.
NEO	=	Net electrical output of the system converted to British thermal units per unit of time.
UTO	=	Utilized thermal output or the energy value in British thermal units of thermal energy from the system that is used for heating, cooling, industrial processes, or other beneficial uses, per unit of time.
GEI	=	Gross energy input, based upon the higher heating value of fuel, per unit of time.

(60) "Receive" or "receipt of" means, when referring to the department or U.S. EPA, to come into possession of a document, information, or correspondence, whether sent in hard copy or by authorized electronic transmission, as indicated in an official log, or by a notation made on the document, information, or correspondence, by the department or U.S. EPA in the regular course of business.

(61) "Recordation", "record", or "recorded" means, with regard to CAIR NO<sub>x</sub> allowances, the movement of CAIR NO<sub>x</sub> allowances by the U.S. EPA into or between CAIR NO<sub>x</sub> allowance tracking system accounts, for purposes of allocation, transfer, or deduction.

(62) "Reference method" means any direct test method of sampling and analyzing for an air pollutant as specified in 40 CFR 75.22\*.

(63) "Replacement", "replace", or "replaced" means, with regard to a unit, the demolishing of a unit, or the permanent shutdown and permanent disabling of a unit, and the construction of another unit (the replacement unit) to be used instead of the demolished or shutdown unit (the replaced unit).

(64) "Repowered" means, with regard to a unit, replacement of a coal-fired boiler with one (1) of the following coal-fired technologies at the same source as the coal-fired boiler:

(A) atmospheric or pressurized fluidized bed combustion;

(B) integrated gasification combined cycle;

(C) magnetohydrodynamics;

(D) direct and indirect coal-fired turbines;

(E) integrated gasification fuel cells; or

(F) as determined by the U.S. EPA in consultation with the Secretary of Energy, a derivative of one (1) or more of the technologies under clauses (A) through (E) and any other coal-fired technology capable of controlling multiple combustion emissions simultaneously with improved boiler or

generation efficiency and with significantly greater waste reduction relative to the performance of technology in widespread commercial use as of January 1, 2005.

(65) "Sequential use of energy" means:

(A) for a topping-cycle cogeneration unit, the use of reject heat from electricity production in a useful thermal energy application or process; or

(B) for a bottoming-cycle cogeneration unit, the use of reject heat from useful thermal energy application or process in electricity production.

(66) "Serial number" means, for a CAIR NO<sub>x</sub> allowance, the unique identification number assigned to each CAIR NO<sub>x</sub> allowance by the U.S. EPA.<sup>x</sup>

(67) "Solid waste incineration unit" means a stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine that is a solid waste incineration unit as defined in the Clean Air Act, Section 129(g)(1).

(68) "Source" means all buildings, structures, or installations located in one (1) or more contiguous or adjacent properties under common control of the same person or persons. For purposes of Section 502(c) of the Clean Air Act, a source, including a source with multiple units, shall be considered a single facility.

(69) "Submit" or "serve" means to send or transmit a document, information, or correspondence to the person specified in accordance with the applicable rule:

(A) in person;

(B) by United States Postal Service; or

(C) by other means of dispatch or transmission and delivery.

Compliance with any submission or service deadline shall be determined by the date of dispatch, transmission, or mailing and not the date of receipt by the department or U.S. EPA.

(70) "Title V operating permit" or "Part 70 operating permit" means a permit issued under [326 IAC 2-7](#).

(71) "Title V operating permit regulations" or "Part 70 operating permit regulations" means the rules under [326 IAC 2-7](#).

(72) "Ton" means two thousand (2,000) pounds. For the purpose of determining compliance with the CAIR NO<sub>x</sub> emissions limitation, total tons of nitrogen oxides emissions for a control period shall be calculated as the sum of all recorded hourly emissions, or the mass equivalent of the recorded hourly emission rates, in accordance with section 11 of this rule, but with any remaining fraction of a ton equal to or greater than fifty-hundredths (0.50) tons deemed to equal one (1) ton and any remaining fraction of a ton less than fifty-hundredths (0.50) tons deemed to equal zero (0) tons.

(73) "Topping-cycle cogeneration unit" means a cogeneration unit in which the energy input to the unit is first used to produce useful power, including electricity, and at least some of the reject heat from the electricity production is then used to provide useful thermal energy.

(74) "Total energy input" means, with regard to a cogeneration unit, total energy of all forms supplied to the cogeneration unit, excluding energy produced by the cogeneration unit itself.

(75) "Total energy output" means, with regard to a cogeneration unit, the sum of useful power and useful thermal energy produced by the cogeneration unit.

(76) "Unit" means a stationary, fossil-fuel-fired boiler or combustion turbine or other stationary, fossil-fuel-fired combustion device.

(77) "Unit operating day" means a calendar day in which a unit combusts any fuel.

(78) "Unit operating hour" or "hour of unit operation" means an hour in which a unit combusts any fuel.

(79) "Useful power" means, with regard to a cogeneration unit, electricity or mechanical energy made available for use, excluding any such energy used in the power production process, which process includes, but is not limited to, any on-site processing or treatment of fuel combusted at the unit and any on-site emission controls.

(80) "Useful thermal energy" means, with regard to a cogeneration unit, thermal energy that is:

(A) made available to an industrial or commercial process, not a power production process, excluding any heat contained in condensate return or makeup water;

(B) used in a heating application (for example, space heating or domestic hot water heating); or

(C) used in a space cooling application (that is, thermal energy used by an absorption chiller).

(81) "Utility power distribution system" means the portion of an electricity grid owned or operated by a utility and dedicated to delivering electricity to customers.

\*These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.

### [326 IAC 24-1-3](#) Retired unit exemption

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 3. (a) This section applies to any CAIR NO<sub>x</sub> unit, other than a NO<sub>x</sub> opt-in source, that is permanently retired.

(b) Any CAIR NO<sub>x</sub> unit that is permanently retired and is not a CAIR NO<sub>x</sub> opt-in unit under section 12 of this rule shall be exempt from the CAIR NO<sub>x</sub> annual trading program, except for the provisions of this section and sections 1, 2, 4(c)(4) through 4(c)(7), 5, 6, and 8 through 10 of this rule.

(c) The exemption under this section shall become effective the day on which the CAIR NO<sub>x</sub> unit is permanently retired. Within thirty (30) days of the unit's permanent retirement, the CAIR designated representative shall submit a statement to the department and shall submit a copy of the statement to the U.S. EPA. The statement shall state, in a format prescribed by the department, that the unit was permanently retired on a specific date and shall comply with the requirements of subsection (e).

(d) After receipt of the statement under subsection (c), the department shall amend any permit under section 7 of this rule covering the source at which the unit is located to add the provisions and requirements of the exemption under subsections (b) and (e).

(e) A unit exempt under this section shall comply with the following provisions:

(1) The unit shall not emit any nitrogen oxides, starting on the date that the exemption takes effect.

(2) The department shall allocate CAIR NO<sub>x</sub> allowances under section 8 of this rule to the unit.

(3) For a period of five (5) years from the date the records are created, the owners and operators of the unit shall retain, at the source that includes the unit, or a central location within Indiana for those owners and operators with unattended sources, records demonstrating that the unit is permanently retired. The five (5) year period for keeping records may be extended for cause, at any time before the end of the period, in writing by the department or U.S. EPA. The owners and operators bear the burden of proof that the unit is permanently retired.

(4) The owners and operators and, to the extent applicable, the CAIR designated representative of the unit shall comply with the requirements of the CAIR NO<sub>x</sub> annual trading program concerning all periods for which the exemption is not in effect, even if such requirements arise, or must be complied with, after the exemption takes effect.

(5) If the unit is located at a source that is required, or but for this exemption would be required, to have an operating permit under [326 IAC 2-7](#) or a FESOP under [326 IAC 2-8](#), the unit shall not resume operation unless the CAIR designated representative of the source submits a complete CAIR permit application under section 7(c) of this rule for the unit not less than two hundred seventy (270) days before the later of January 1, 2009, or the date on which the unit resumes operation.

(6) A unit exempt under this section shall lose its exemption on the earlier of the following dates:

(A) The date on which the CAIR designated representative submits a CAIR permit application for the unit under subdivision (5).

(B) The date on which the CAIR designated representative is required under subdivision (5) to submit a CAIR permit application for the unit.

(C) The date on which the unit resumes operation, if the CAIR designated representative is not required to submit a CAIR permit application for the unit.

(7) For the purpose of applying monitoring, reporting, and record keeping requirements under section 11 of this rule, a unit that loses its exemption under this section shall be treated as a unit that commences commercial operation on the first date on which the unit resumes operation.

(Air Pollution Control Board; [326 IAC 24-1-3](#))

### [326 IAC 24-1-4](#) Standard requirements

Sec. 4. (a) The owners and operators, and CAIR designated representative of each CAIR NO<sub>x</sub> source shall comply with the following permit requirements:

(1) The CAIR designated representative of each CAIR NO<sub>x</sub> source required to have a federally enforceable permit and each CAIR NO<sub>x</sub> unit required to have a federally enforceable permit at the source shall submit the following to the department:

(A) A complete CAIR permit application under section 7(c) of this rule in accordance with the deadlines specified in section 7(b) of this rule.

(B) Any supplemental information that the department determines is necessary in order to review a CAIR permit application in a timely manner and issue or deny a CAIR permit.

(2) The owners and operators of each CAIR NO<sub>x</sub> source required to have a federally enforceable permit and each CAIR NO<sub>x</sub> unit required to have a federally enforceable permit at the source shall have a CAIR permit issued by the department under section 7 of this rule for the source and operate the source and the unit in compliance with such CAIR permit.

(3) Except as provided in section 12 of this rule, the owners and operators of a CAIR NO<sub>x</sub> source that is not otherwise required to have a federally enforceable permit and each CAIR NO<sub>x</sub> unit that is not otherwise required to have a federally enforceable permit are not required to submit a CAIR permit application, and to have a CAIR permit, under section 7 of this rule for such CAIR NO<sub>x</sub> source and such CAIR NO<sub>x</sub> unit.

(b) The owners and operators, and the CAIR designated representative, of each CAIR NO<sub>x</sub> source and CAIR NO<sub>x</sub> unit at the source shall comply with the following monitoring, reporting, and record keeping requirements:

(1) The monitoring, reporting, and record keeping requirements of section 11 of this rule.

(2) The emissions measurements recorded and reported in accordance with section 11 of this rule shall be used to determine compliance by each CAIR NO<sub>x</sub> source with the CAIR NO<sub>x</sub> emissions limitation under subsection (c).

(c) The owners and operators, and the CAIR designated representative, of each CAIR NO<sub>x</sub> source and CAIR NO<sub>x</sub> unit at the source shall comply with the following nitrogen oxides emission requirements:

(1) As of the allowance transfer deadline for a control period, the owners and operators of each CAIR NO<sub>x</sub> source and each CAIR NO<sub>x</sub> unit at the source shall hold, in the source's compliance account, CAIR NO<sub>x</sub> allowances available for compliance deductions for the control period under section 9(i) of this rule in an amount not less than the tons of total nitrogen oxides emissions for the control period from all CAIR NO<sub>x</sub> units at the source, as determined in accordance with section 11 of this rule.

(2) A CAIR NO<sub>x</sub> unit shall be subject to the requirements under subdivision (1) for the control period starting on the later of January 1, 2009, or the deadline for meeting the unit's monitor certification requirements under section 11(c)(1), 11(c)(2), or 11(c)(5) of this rule and for each control period thereafter.

(3) A CAIR NO<sub>x</sub> allowance shall not be deducted, for compliance with the requirements under subdivision (1), for a control period in a calendar year before the year for which the CAIR NO<sub>x</sub> allowance was allocated.

(4) CAIR NO<sub>x</sub> allowances shall be held in, deducted from, or transferred into or among CAIR NO<sub>x</sub> allowance tracking system accounts in accordance with sections 9, 10, and 12 of this rule.

(5) A CAIR NO<sub>x</sub> allowance is a limited authorization to emit one (1) ton of nitrogen oxides in accordance with the CAIR NO<sub>x</sub> annual trading program. No provision of the CAIR NO<sub>x</sub> annual trading program, the CAIR permit application, the CAIR permit, or an exemption under section 3 of this rule and no provision of law shall be construed to limit the authority of the department or the U.S. EPA to terminate or limit such authorization.

(6) A CAIR NO<sub>x</sub> allowance does not constitute a property right.

(7) Upon recordation by the U.S. EPA under section 8, 9, 10, or 12 of this rule, every allocation, transfer, or deduction of a CAIR NO<sub>x</sub> allowance to or from a CAIR NO<sub>x</sub> source's compliance account is incorporated automatically in any CAIR permit of the source.

(d) The owners and operators of a CAIR NO<sub>x</sub> source and each CAIR NO<sub>x</sub> unit at the source that emits nitrogen oxides during any control period in excess of the CAIR NO<sub>x</sub> emissions limitation shall do the

following:

- (1) Surrender the CAIR NO<sub>x</sub> allowances required for deduction under section 9(j)(4) of this rule.
- (2) Pay any fine, penalty, or assessment or comply with any other remedy imposed, for the same violations, under the Clean Air Act or applicable state law.

Each ton of such excess emissions and each day of such control period shall constitute a separate violation of this section, the Clean Air Act, and applicable state law.

(e) Owners and operators of each CAIR NO<sub>x</sub> source and each CAIR NO<sub>x</sub> unit at the source shall comply with the following record keeping and reporting requirements:

- (1) Unless otherwise provided, the owners and operators of the CAIR NO<sub>x</sub> source and each CAIR NO<sub>x</sub> unit at the source shall keep on site at the source or a central location within Indiana for those owners and operators with unattended sources, each of the following documents for a period of five (5) years from the date the document is created. This period may be extended for cause, at any time before the end of five (5) years, in writing by the department or U.S. EPA, as follows:

(A) The certificate of representation under section 6(h) of this rule for the CAIR designated representative for the source and each CAIR NO<sub>x</sub> unit at the source and all documents that demonstrate the truth of the statements in the certificate of representation; provided that the certificate and documents shall be retained on site at the source or a central location within Indiana for those owners and operators with unattended sources beyond such five (5) year period until such documents are superseded because of the submission of a new certificate of representation under section 6(h) of this rule changing the CAIR designated representative.

(B) All emissions monitoring information, in accordance with section 11 of this rule, provided that to the extent that section 11 of this rule provides for a three (3) year period for record keeping, the three (3) year period shall apply.

(C) Copies of all reports, compliance certifications, and other submissions and all records made or required under the CAIR NO<sub>x</sub> annual trading program.

(D) Copies of all documents used to complete a CAIR permit application and any other submission under the CAIR NO<sub>x</sub> annual trading program or to demonstrate compliance with the requirements of the CAIR NO<sub>x</sub> annual trading program.

- (2) The CAIR designated representative of a CAIR NO<sub>x</sub> source and each CAIR NO<sub>x</sub> unit at the source shall submit the reports required under the CAIR NO<sub>x</sub> annual trading program, including those under section 11 of this rule.

(f) The owners and operators of each CAIR NO<sub>x</sub> source and each CAIR NO<sub>x</sub> unit shall be liable as follows:

- (1) Each CAIR NO<sub>x</sub> source and each CAIR NO<sub>x</sub> unit shall meet the requirements of the CAIR NO<sub>x</sub> annual trading program.

(2) Any provision of the CAIR NO<sub>x</sub> annual trading program that applies to a CAIR NO<sub>x</sub> source or the CAIR designated representative of a CAIR NO<sub>x</sub> source shall also apply to the owners and operators of such source and of the CAIR NO<sub>x</sub> units at the source.

(3) Any provision of the CAIR NO<sub>x</sub> annual trading program that applies to a CAIR NO<sub>x</sub> unit or the CAIR designated representative of a CAIR NO<sub>x</sub> unit shall also apply to the owners and operators of such unit.

(g) No provision of the CAIR NO<sub>x</sub> annual trading program, a CAIR permit application, a CAIR permit, or an exemption under section 3 of this rule shall be construed as exempting or excluding the owners and operators, and the CAIR designated representative, of a CAIR NO<sub>x</sub> source or CAIR NO<sub>x</sub> unit from compliance with any other provision of the applicable, approved state implementation plan, a federally enforceable permit, or the Clean Air Act.

(Air Pollution Control Board; [326 IAC 24-1-4](#))

### **[326 IAC 24-1-5](#) Computation of time and appeal procedures**

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

**Sec. 5. (a) Unless otherwise stated, any time period scheduled, under the CAIR NO<sub>x</sub> annual trading**



program, to begin on the occurrence of an act or event shall begin on the day the act or event occurs.

(b) Unless otherwise stated, any time period scheduled, under the CAIR NO<sub>x</sub> annual trading program, to begin before the occurrence of an act or event shall be computed so that the period ends the day before the act or event occurs.

(c) Unless otherwise stated, if the final day of any time period, under the CAIR NO<sub>x</sub> annual trading program, falls on a weekend or a state or federal holiday, the time period shall be extended to the next business day.

(d) The appeal procedures for decisions of the U.S. EPA under the CAIR NO<sub>x</sub> annual trading program are set forth in 40 CFR 78\*.

(Air Pollution Control Board; [326 IAC 24-1-5](#))

### **[326 IAC 24-1-6](#) CAIR designated representative for CAIR NO<sub>x</sub> sources**

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 6. (a) Except as provided under subsection (f), each CAIR NO<sub>x</sub> source, including all CAIR NO<sub>x</sub> units at the source, shall have one (1) and only one (1) CAIR designated representative, with regard to all matters under the CAIR NO<sub>x</sub> annual trading program concerning the source or any CAIR NO<sub>x</sub> unit at the source.

(b) The CAIR designated representative of the CAIR NO<sub>x</sub> source shall be selected by an agreement binding on the owners and operators of the source and all CAIR NO<sub>x</sub> units at the source and shall act in accordance with the certification statement in subsection (h)(4).

(c) Upon receipt by the U.S. EPA of a complete certificate of representation under subsection (h), the CAIR designated representative of the source shall represent and, by his or her representations, actions, inactions, or submissions, legally bind each owner and operator of the CAIR NO<sub>x</sub> source represented and each CAIR NO<sub>x</sub> unit at the source in all matters pertaining to the CAIR NO<sub>x</sub> annual trading program, notwithstanding any agreement between the CAIR designated representative and such owners and operators. The owners and operators shall be bound by any decision or order issued to the CAIR designated representative by the department, the U.S. EPA, or a court regarding the source or unit.

(d) No CAIR permit will be issued, no emissions data reports will be accepted, and no CAIR NO<sub>x</sub> allowance tracking system account will be established for a CAIR NO<sub>x</sub> unit at a source, until the U.S. EPA has received a complete certificate of representation under subsection (h) for a CAIR designated representative of the source and the CAIR NO<sub>x</sub> units at the source.

(e) The following shall apply to a submissions made under the CAIR NO<sub>x</sub> annual trading program:

(1) Each submission under the CAIR NO<sub>x</sub> annual trading program shall be submitted, signed, and certified by the CAIR designated representative for each CAIR NO<sub>x</sub> source on behalf of which the submission is made. Each such submission shall include the following certification statement by the CAIR designated representative: "I am authorized to make this submission on behalf of the owners and operators of the source or units for which the submission is made. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment."

(2) The department and U.S. EPA will accept or act on a submission made on behalf of owner or operators of a CAIR NO<sub>x</sub> source or a CAIR NO<sub>x</sub> unit only if the submission has been made, signed, and

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certified in accordance with subdivision (1).

(f) The following shall apply where the owners or operators of a CAIR NO<sub>x</sub> source choose to designate an alternate CAIR designated representative:

(1) A certificate of representation under subsection (h) may designate one (1) and only one (1) alternate CAIR designated representative, who may act on behalf of the CAIR designated representative. The agreement by which the alternate CAIR designated representative is selected shall include a procedure for authorizing the alternate CAIR designated representative to act in lieu of the CAIR designated representative.

(2) Upon receipt by the U.S. EPA of a complete certificate of representation under subsection (h), any representation, action, inaction, or submission by the alternate CAIR designated representative shall be deemed to be a representation, action, inaction, or submission by the CAIR designated representative.

(3) Except in this subsection and subsections (a), (d), (g), (h), and (j), and sections 2, 9(a) through 9(c), and 12(d) of this rule, whenever the term "CAIR designated representative" is used in this rule, the term shall be construed to include the CAIR designated representative or any alternate CAIR designated representative.

(g) The following shall apply when changing the CAIR designated representative, the alternate CAIR designated representative, or when there are changes in the owners or operators:

(1) The CAIR designated representative may be changed at any time upon receipt by the U.S. EPA of a superseding complete certificate of representation under subsection (h). Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous CAIR designated representative before the time and date when the U.S. EPA receives the superseding certificate of representation shall be binding on the new CAIR designated representative and the owners and operators of the CAIR NO<sub>x</sub> source and the CAIR NO<sub>x</sub> units at the source.

(2) The alternate CAIR designated representative may be changed at any time upon receipt by the U.S. EPA of a superseding complete certificate of representation under subsection (h). Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous alternate CAIR designated representative before the time and date when the U.S. EPA receives the superseding certificate of representation shall be binding on the new alternate CAIR designated representative and the owners and operators of the CAIR NO<sub>x</sub> source and the CAIR NO<sub>x</sub> units at the source.

(3) Changes in the owner and operators shall be made as follows:

(A) In the event an owner or operator of a CAIR NO<sub>x</sub> source or a CAIR NO<sub>x</sub> unit is not included in the list of owners and operators in the certificate of representation under subsection (h), such owner or operator shall be deemed to be subject to and bound by the certificate of representation, the representations, actions, inactions, and submissions of the CAIR designated representative and any alternate CAIR designated representative of the source or unit, and the decisions and orders of the department, the U.S. EPA, or a court, as if the owner or operator were included in such list.

(B) Within thirty (30) days following any change in the owners and operators of a CAIR NO<sub>x</sub> source or a CAIR NO<sub>x</sub> unit, including the addition of a new owner or operator, the CAIR designated representative or any alternate CAIR designated representative shall submit a revision to the certificate of representation under subsection (h) amending the list of owners and operators to include the change.

(h) A complete certificate of representation for a CAIR designated representative or an alternate CAIR designated representative shall include the following elements in a format prescribed by the U.S. EPA:

(1) Identification of the CAIR NO<sub>x</sub> source, and each CAIR NO<sub>x</sub> unit at the source, for which the certificate of representation is submitted, including identification and nameplate capacity of each generator served by each such unit.

(2) The name, address, e-mail address, if any, telephone number, and facsimile transmission number, if any, of the CAIR designated representative and any alternate CAIR designated representative.

(3) A list of the owners and operators of the CAIR NO<sub>x</sub> source and of each CAIR NO<sub>x</sub> unit at the source.

(4) The following certification statement by the CAIR designated representative and any alternate CAIR designated representative: "I certify that I was selected as the CAIR designated representative or alternate CAIR designated representative, as applicable, by an agreement binding on the owners and operators of the source and each CAIR NO<sub>x</sub> unit at the source. I certify that I have all the necessary authority to carry out my duties and responsibilities under the CAIR NO<sub>x</sub> annual trading program on behalf of the owners and operators of the source and of each CAIR NO<sub>x</sub> unit at the source and that each such owner and operator shall be fully bound by my representations, actions, inactions, or

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submissions. I certify that the owners and operators of the source and of each CAIR NO<sub>x</sub> unit at the source shall be bound by any order issued to me by the U.S. EPA, the department, or a court regarding the source or unit. Where there are multiple holders of a legal or equitable title to, or a leasehold interest in, a CAIR NO<sub>x</sub> unit, or where a utility or industrial customer purchases power from a CAIR NO<sub>x</sub> unit under a life-of-the-unit, firm power contractual arrangement, I certify that: I have given a written notice of my selection as the 'CAIR designated representative' or 'alternate CAIR designated representative', as applicable, and of the agreement by which I was selected to each owner and operator of the source and of each CAIR NO<sub>x</sub> unit at the source; and CAIR NO<sub>x</sub> allowances and proceeds of transactions involving CAIR NO<sub>x</sub> allowances shall be deemed to be held or distributed in proportion to each holder's legal, equitable, leasehold, or contractual reservation or entitlement, except that, if such multiple holders have expressly provided for a different distribution of CAIR NO<sub>x</sub> allowances by contract, CAIR NO<sub>x</sub> allowances and proceeds of transactions involving CAIR NO<sub>x</sub> allowances shall be deemed to be held or distributed in accordance with the contract."

(5) The signature of the CAIR designated representative and any alternate CAIR designated representative and the dates signed.

Unless otherwise required by the department or the U.S. EPA, documents of agreement referred to in the certificate of representation shall not be submitted to the department or the U.S. EPA. Neither the department nor the U.S. EPA shall be under any obligation to review or evaluate the sufficiency of such documents, if submitted.

(i) The following shall apply to objections concerning CAIR designated representatives:

- (1) Once a complete certificate of representation under subsection (h) has been submitted and received, the department and the U.S. EPA will rely on the certificate of representation unless and until a superseding complete certificate of representation under subsection (h) is received by the U.S. EPA.
- (2) Except as provided in subsection (g)(1) or (g)(2), no objection or other communication submitted to the department or the U.S. EPA concerning the authorization, or any representation, action, inaction, or submission, of the CAIR designated representative shall affect any representation, action, inaction, or submission of the CAIR designated representative or the finality of any decision or order by the department or the U.S. EPA under the CAIR NO<sub>x</sub> annual trading program.
- (3) Neither the department nor the U.S. EPA will adjudicate any private legal dispute concerning the authorization or any representation, action, inaction, or submission of any CAIR designated representative, including private legal disputes concerning the proceeds of CAIR NO<sub>x</sub> allowance transfers.

(j) The following shall apply to delegation by CAIR designated representative and alternate CAIR designated representative:

- (1) A CAIR designated representative may delegate, to one (1) or more natural persons, his or her authority to make an electronic submission to the U.S. EPA provided for or required under this article.
- (2) An alternate CAIR designated representative may delegate, to one (1) or more natural persons, his or her authority to make an electronic submission to the U.S. EPA provided for or required under this article.
- (3) In order to delegate authority to make an electronic submission to the U.S. EPA in accordance with subdivision (1) or (2), the CAIR designated representative or alternate CAIR designated representative, as appropriate, must submit to the U.S. EPA a notice of delegation, in a format prescribed by the U.S. EPA, that includes the following elements:
  - (A) The name, address, e-mail address, telephone number, and facsimile transmission number, if any, of the following:
    - (i) The CAIR designated representative or alternate CAIR designated representative.
    - (ii) The natural person, referred to as an "agent".
  - (B) For each such natural person, a list of the type or types of electronic submissions under subdivision (1) or (2) for which authority is delegated to him or her.
  - (C) The following certification statements by such CAIR designated representative or alternate CAIR designated representative:
    - (i) "I agree that any electronic submission to the U.S. EPA that is by an agent identified in this notice of delegation and of a type listed for such agent in this notice of delegation and that is made when I am a CAIR designated representative or alternate CAIR designated representative, as appropriate, and before this notice of delegation is superseded by another notice of delegation under [326 IAC 24-1-6\(j\)\(4\)](#) shall be deemed to be an electronic submission by me."
    - (ii) "Until this notice of delegation is superseded by another notice of delegation under [326 IAC 24-1-6\(j\)\(4\)](#), I agree to maintain an e-mail account and to notify the U.S. EPA immediately of any

change in my e-mail address unless all delegation of authority by me under [326 IAC 24-1-6\(j\)](#) is terminated."

(4) A notice of delegation submitted under subdivision (3) shall be effective, with regard to the CAIR designated representative or alternate CAIR designated representative identified in such notice, upon receipt of such notice by the U.S. EPA and until receipt by the U.S. EPA of a superseding notice of delegation submitted by such CAIR designated representative or alternate CAIR designated representative, as appropriate. The superseding notice of delegation may replace any previously identified agent, add a new agent, or eliminate entirely any delegation of authority.

(5) Any electronic submission covered by the certification in subdivision (3)(C)(i) and made in accordance with a notice of delegation effective under subdivision (4) shall be deemed to be an electronic submission by the CAIR designated representative or alternate CAIR designated representative submitting such notice of delegation.

(Air Pollution Control Board; [326 IAC 24-1-6](#))

### [326 IAC 24-1-7](#) Permit requirements

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 7. (a) For each CAIR NO<sub>x</sub> source required to have a federally enforceable permit, the permit shall include a CAIR permit administered by the department as follows:

(1) For CAIR NO<sub>x</sub> sources required to have a Part 70 operating permit under [326 IAC 2-7](#), the CAIR portion of the Part 70 operating permit shall be administered in accordance with [326 IAC 2-7](#), except as provided otherwise by this section and sections 3 and 12 of this rule.

(2) For CAIR NO<sub>x</sub> sources required to have a FESOP under [326 IAC 2-8](#), the CAIR portion of the FESOP shall be administered in accordance with [326 IAC 2-8](#), except as provided otherwise by this section and sections 3 and 12 of this rule.

(3) Each CAIR permit, including a draft or proposed CAIR permit, if applicable, shall contain, with regard to the CAIR NO<sub>x</sub> source and the CAIR NO<sub>x</sub> units at the source covered by the CAIR permit, all applicable CAIR NO<sub>x</sub> annual trading program, CAIR NO<sub>x</sub> ozone season trading program, and CAIR SO<sub>2</sub> trading program requirements and shall be a complete and separable portion of the Part 70 operating permit or FESOP.

(b) Requirements for the submission of CAIR permit applications are as follows:

(1) The CAIR designated representative of any CAIR NO<sub>x</sub> source required to have a Part 70 operating permit or FESOP shall submit to the department a complete CAIR permit application under subsection (c) for the source covering each CAIR NO<sub>x</sub> unit at the source at least two hundred seventy (270) days before the later of January 1, 2009, or the date on which the CAIR NO<sub>x</sub> unit commences commercial operation, except as provided in section 12(e) of this rule.

(2) For a CAIR NO<sub>x</sub> source required to have a Part 70 operating permit or FESOP, the CAIR designated representative shall submit a complete CAIR permit application under subsection (c) for the source covering each CAIR NO<sub>x</sub> unit at the source to renew the CAIR permit in accordance with [326 IAC 2-7-4\(a\)\(1\)\(D\)](#) or [326 IAC 2-8-3\(h\)](#), as applicable, except as provided in section 12(e) of this rule.

(c) In addition to the requirements of [326 IAC 2-7-4\(c\)](#) or [326 IAC 2-8-3\(c\)](#), a complete CAIR permit application shall include the following elements concerning the CAIR NO<sub>x</sub> source for which the application is submitted:

(1) Identification of the CAIR NO<sub>x</sub> source.

(2) Identification of each CAIR NO<sub>x</sub> unit at the CAIR NO<sub>x</sub> source.

(3) The standard requirements under section 4 of this rule.

(d) In addition to the requirements under [326 IAC 2-7](#) or [326 IAC 2-8](#), each CAIR permit shall contain, in a format prescribed by the department, all elements required for a complete CAIR permit application under subsection (c).

(e) Each CAIR permit is deemed to incorporate automatically the definitions of terms under section 2 of this rule and, upon recordation by the U.S. EPA under section 8, 9, 10, or 12 of this rule, every

allocation, transfer, or deduction of a CAIR NO<sub>x</sub> allowance to or from the compliance account of the CAIR NO<sub>x</sub> source covered by the permit.

(f) The initial CAIR permit covering a CAIR unit for which a complete CAIR permit application is timely submitted under subsection (b) shall become effective upon issuance.

(g) The term of the CAIR permit shall be set by the department, as necessary to facilitate coordination of the renewal of the CAIR permit with issuance, revision, or renewal of the CAIR NO<sub>x</sub> source's Part 70 operating permit or FESOP.

(h) Except as provided in subsection (e), the department shall revise the CAIR permit, as necessary, in accordance with the following:

- (1) The permit modification and revision provisions under [326 IAC 2-7](#), for a CAIR source with a Part 70 operating permit.
- (2) The permit modification and revision provisions under [326 IAC 2-8](#), for a CAIR source with a FESOP.

(Air Pollution Control Board; [326 IAC 24-1-7](#))

#### [326 IAC 24-1-8](#) CAIR NO<sub>x</sub> allowance allocations

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 8. (a) The trading program budget allocated by the department under subsections (d) through (h) for each control period shall equal the CAIR NO<sub>x</sub> allowances apportioned to the CAIR NO<sub>x</sub> units under section 1 of this rule, as determined by the procedures in this section. The total number of CAIR NO<sub>x</sub> allowances that are available for each control period for annual allocations of CAIR NO<sub>x</sub> allowances under this rule are one hundred eight thousand nine hundred thirty-five (108,935) tons in 2009 through 2014 and ninety thousand seven hundred seventy-nine (90,779) in 2015 and thereafter, apportioned as follows:

- (1) For existing units (that is, units that have a baseline heat input, as determined under subsection (c)(1)):
  - (A) one hundred three thousand four hundred eighty-eight (103,488) tons for CAIR NO<sub>x</sub> units in 2009 through 2014; and
  - (B) eighty-eight thousand fifty-five (88,055) tons for CAIR NO<sub>x</sub> units in 2015 and thereafter.
- (2) For new unit allocation set-asides:
  - (A) four thousand nine hundred two (4,902) tons for CAIR NO<sub>x</sub> units in 2009 through 2014; and
  - (B) two thousand two hundred seventy (2,270) tons for CAIR NO<sub>x</sub> units in 2015 and thereafter.
- (3) For the energy efficiency and renewable energy allocation set-asides:
  - (A) five hundred forty-five (545) tons for CAIR NO<sub>x</sub> units in 2009 through 2014; and
  - (B) four hundred fifty-four (454) tons for CAIR NO<sub>x</sub> units in 2105 and thereafter.

(b) The department shall allocate CAIR NO<sub>x</sub> allowances to CAIR NO<sub>x</sub> units according to the following schedule:

- (1) Within thirty (30) days of the effective date of this rule, the department shall submit to the U.S. EPA the CAIR NO<sub>x</sub> allowance allocations, in a format prescribed by the U.S. EPA and in accordance with subsections (c) and (d), for the control periods in 2009, 2010, 2011, 2012, 2013, and 2014.
- (2) By October 31, 2008, and October 31 every six (6) years thereafter, the department shall submit to the U.S. EPA the CAIR NO<sub>x</sub> allowance allocations, in a format prescribed by the U.S. EPA and in accordance with subsections (c) and (d), for the control periods seven (7), eight (8), nine (9), ten (10), eleven (11), and twelve (12) years after the year of the allowances allocation.
- (3) By October 31, 2009, and October 31 of each year thereafter, the department shall submit to the U.S. EPA the CAIR NO<sub>x</sub> allowance allocations, in a format prescribed by the U.S. EPA and in accordance with subsections (c), (e), and (f), for the control period in the year of the applicable deadline for submission under this rule.
- (4) The department shall make available for review to the public the CAIR NO<sub>x</sub> allowance allocations under subdivision (2) on July 31 of each year allocations are made and shall provide a thirty (30) day opportunity for submission of objections to the CAIR NO<sub>x</sub> allowance allocations. Objections shall be



limited to addressing whether the CAIR NO<sub>x</sub> allowance allocations are in accordance with this section. Based on any such objections, the department shall consider any objections and input from affected sources and, if appropriate, adjust each determination to the extent necessary to ensure that it is in accordance with this section.

(c) The baseline heat input, in million British thermal units (MMBtu) used with respect to CAIR NO<sub>x</sub> allowance allocations under subsection (d) for each CAIR NO<sub>x</sub> unit shall be as follows:

(1) For units commencing operation before January 1, 2001:

(A) For a CAIR NO<sub>x</sub> allowance allocation under subsection (b)(1), the average of the three (3) highest amounts of the unit's adjusted control period heat input for 1998 through 2005, with the adjusted control period heat input for each year calculated as follows:

(i) If the unit is coal-fired during the year, the unit's control period heat input for such year is multiplied by one hundred percent (100%).

(ii) If the unit is oil-fired during the year, the unit's control period heat input for such year is multiplied by sixty percent (60%).

(iii) If the unit is not subject to item (i) or (ii), the unit's control period heat input for such year is multiplied by forty percent (40%).

(B) For a CAIR NO<sub>x</sub> allowance allocation under subsection (b)(2), the average of the three (3) highest amounts of the unit's adjusted control period heat input for the eight (8) years before when the CAIR NO<sub>x</sub> allocation is being calculated, with the adjusted control period heat input for each year calculated as follows:

(i) If the unit is coal-fired during the year, the unit's control period heat input for such year is multiplied by one hundred percent (100%).

(ii) If the unit is oil-fired during the year, the unit's control period heat input for such year is multiplied by sixty percent (60%).

(iii) If the unit is not subject to item (i) or (ii), the unit's control period heat input for such year is multiplied by forty percent (40%).

(2) For units commencing operation on or after January 1, 2001, and operating each calendar year during a period of three (3) or more consecutive calendar years, not to exceed eight (8), the average of the three (3) highest amounts of the unit's total converted control period heat input.

(3) A unit's control period heat input, and a unit's status as coal-fired or not coal-fired, for a calendar year under subdivision (1), and a unit's total tons of NO<sub>x</sub> emissions during a control period in calendar year under subsection (e), shall be determined in accordance with 40 CFR 75\*, to the extent the unit was otherwise subject to the requirements of 40 CFR 75\* for the year, or shall be based on the best available data reported to the department for the unit, to the extent the unit was not otherwise subject to the requirements of 40 CFR 75\* for the year.

(4) A unit's converted control period heat input for a calendar year under subdivision (2) equals one (1) of the following:

(A) The control period gross electrical output of the generator or generators served by the unit multiplied by eight thousand nine hundred (8,900) British thermal units per kilowatt hour (Btu/kWh) for coal-fired units or seven thousand six hundred (7,600) British thermal units per kilowatt hour (Btu/kWh) for a unit that is not coal-fired divided by one million (1,000,000) British thermal units per million British thermal units (Btu/MMBtu), provided that if a generator is served by two (2) or more units, then the gross electrical output of the generator shall be attributed to each unit in proportion to the unit's share of the total control period heat input of such units for the year.

(B) For a unit that has equipment used to produce electricity and useful thermal energy for industrial, commercial, heating, or cooling purposes through the sequential use of energy, the control period gross electrical output of the unit multiplied by eight thousand nine hundred (8,900) British thermal units per kilowatt hour (Btu/kWh) plus the useful energy, in British thermal units (Btu), produced during the control period divided by eight-tenths (0.8), and with the sum divided by one million (1,000,000) British thermal units per million British thermal units (Btu/MMBtu).

(d) For each control period in 2009 and thereafter, the department shall allocate to all CAIR NO<sub>x</sub> units that have a baseline heat input, as determined under subsection (c), a total amount of CAIR NO<sub>x</sub> allowances as listed in subsection (a)(1), except as provided in subsection (f). The department shall allocate CAIR NO<sub>x</sub> allowances to each CAIR NO<sub>x</sub> unit in an amount determined by multiplying the total amount under subsection (a)(1) by the ratio of the baseline heat input of such CAIR NO<sub>x</sub> unit to the total amount of baseline heat input of all such CAIR NO<sub>x</sub> units and rounding to the nearest whole allowance as appropriate.

(e) For each control period in 2009 and thereafter, the department shall allocate CAIR NO<sub>x</sub> allowances to CAIR NO<sub>x</sub> units that commenced operation on or after January 1, 2001 and do not yet have a baseline heat input, as determined under subsection (c), in accordance with the following procedures:

(1) The department shall establish a new unit set-aside for each control period equal to the following:

(A) Four thousand nine hundred two (4,902) tons for a control period during 2009 through 2014.

(B) Two thousand two hundred seventy (2,270) tons for CAIR NO<sub>x</sub> units for a control period during 2015 and thereafter.

(2) The CAIR designated representative of such a CAIR NO<sub>x</sub> unit may submit to the department a request, in a format specified by the department, to be allocated CAIR NO<sub>x</sub> allowances, starting with the later of the control period in 2009 or the first control period after the control period in which the CAIR NO<sub>x</sub> unit commences commercial operation and until the first control period for which the unit is allocated CAIR NO<sub>x</sub> allowances under subsection (d). A separate CAIR NO<sub>x</sub> allowance allocation request for each control period for which CAIR NO<sub>x</sub> allowances are sought must be submitted on or before May 1 of such control period and after the date on which the CAIR NO<sub>x</sub> unit commences commercial operation.

(3) In a CAIR NO<sub>x</sub> allowance allocation request under subdivision (2), the CAIR designated representative may request for a control period CAIR NO<sub>x</sub> allowances in an amount not exceeding the CAIR NO<sub>x</sub> unit's total tons of NO<sub>x</sub> emissions during the calendar year immediately before such control period.

(4) The department shall review each CAIR NO<sub>x</sub> allowance allocation request under subdivision (2) and shall allocate CAIR NO<sub>x</sub> allowances for each control period pursuant to such request as follows:

(A) The department shall accept an allowance allocation request only if the request meets, or is adjusted by the department as necessary to meet, the requirements of subdivisions (2) and (3).

(B) On or after May 1 of the control period, the department shall determine the sum of the CAIR NO<sub>x</sub> allowances requested, as adjusted under clause (A), in all allowance allocation requests accepted under clause (A) for the control period.

(C) If the amount of CAIR NO<sub>x</sub> allowances in the new unit set-aside for the control period is greater than or equal to the sum under clause (B), then the department shall allocate the amount of CAIR NO<sub>x</sub> allowances requested, as adjusted under clause (A), to each CAIR NO<sub>x</sub> unit covered by an allowance allocation request accepted under clause (A).

(D) If the new unit set-aside for the control period for which NO<sub>x</sub> allowances are requested has an amount of NO<sub>x</sub> allowances less than the number requested, as adjusted under clause (A), but the energy efficiency and renewable energy allocation set-aside is under-subscribed, the department shall allocate the amount of the NO<sub>x</sub> allowances requested with the difference allocated from the energy efficiency and renewable energy allocation set-aside.

(E) If the amount of CAIR NO<sub>x</sub> allowances in the new unit set-aside for the control period is less than the sum under clause (B), and the energy efficiency and renewable energy allocation set-aside is over subscribed, then the department shall allocate to each CAIR NO<sub>x</sub> unit covered by an allowance allocation request accepted under clause (A) the amount of the CAIR NO<sub>x</sub> allowances requested, as adjusted under clause (A), multiplied by the amount of CAIR NO<sub>x</sub> allowances in the new unit set-aside for the control period, divided by the sum determined under clause (B), and rounded to the nearest whole allowance as appropriate.

(F) The department shall notify each CAIR designated representative that submitted an allowance allocation request of the amount of CAIR NO<sub>x</sub> allowances, if any, allocated for the control period to the CAIR NO<sub>x</sub> unit covered by the request and submit the CAIR NO<sub>x</sub> allowances to U.S. EPA according to subsection (b)(3).

(f) If, after completion of the procedures under subsection (e)(4) for a control period, any unallocated CAIR NO<sub>x</sub> allowances remain in the new unit set-aside for the control period, the department shall allocate to each CAIR NO<sub>x</sub> unit that was allocated CAIR NO<sub>x</sub> allowances under subsection (d) an amount of CAIR NO<sub>x</sub> allowances equal to the total amount of such remaining unallocated CAIR NO<sub>x</sub> allowances, multiplied by the unit's allocation under subsection (d), divided by one hundred three thousand four hundred eighty-eight (103,488) for a control period during 2009 through 2014, and eighty-eight thousand fifty-five (88,055) for a control period during 2015 and thereafter, rounding to the nearest whole allowance as appropriate.

(g) In addition to the CAIR NO<sub>x</sub> allowances allocated under subsections (c) through (f), the department shall allocate for the control period in 2009 up to twenty thousand one hundred fifty-five (20,155) compliance supplement pool NO<sub>x</sub> allowances to CAIR NO<sub>x</sub> units, in accordance with this section. First, the department shall reserve allowances for eligible units and assign the reserved allowances in

accordance with subdivisions (2) and (3). Then, the department will allocate earned CAIR NO<sub>x</sub> allowances and surplus CAIR NO<sub>x</sub> allowances in accordance with subdivision (5):

(1) The following terms and meanings apply to this section:

(A) "Baseline emission rate" means the heat input weighted average NO<sub>x</sub> emission rate for 2003 through 2005 (excluding May 1 through September 30 of each year).

(B) "Eligible unit" or "eligible units" means a CAIR NO<sub>x</sub> unit that:

(i) is a coal-fired unit that will be required to comply with CAIR annual NO<sub>x</sub> emission limitations beginning January 1, 2009;

(ii) has or will have:

(AA) post-combustion NO<sub>x</sub> control equipment, or shares a common stack with a unit that has or will have post-combustion NO<sub>x</sub> control equipment installed before December 31, 2008; or

(BB) for all other units be able to achieve a NO<sub>x</sub> emissions rate that is at least ten percent (10%) lower than the heat input weighted average NO<sub>x</sub> emission rate for 2003 through 2005 (excluding May 1 through September 30 of each year);

(iii) has an established heat input baseline; and

(iv) for which the department has approved its application in accordance with subdivision (2).

(C) "Emission reduction" or "emission reductions" will be calculated, in tons per year, in accordance with the following formula:

Emission reductions = [eligible unit's actual heat input for 2007 or 2008, or both (excluding May 1 through September 30 of each year) × eligible unit's baseline emission rate] - [eligible unit's actual heat input for 2007 or 2008, or both (excluding May 1 through September 30 of each year) × actual NO<sub>x</sub> emission rate (excluding May 1 through September 30 of each year)]/2000.

(D) "Reserved allowance" means an allowance from the compliance supplement pool that the department reserves for an eligible unit. Reserved allowances have no independent value and cannot be traded until after they are earned and allocated as CAIR NO<sub>x</sub> allowances to an eligible unit.

(E) "Unit's excess emissions reductions" means one (1) of the following:

(i) The eligible unit's tons of NO<sub>x</sub> emission reductions in excess of its reserved allowances × 1.5 for units with all of the following control equipment installed:

(AA) Electrostatic precipitator.

(BB) Selective catalytic reduction.

(CC) Flue gas desulfurization.

(ii) The eligible unit's tons of NO<sub>x</sub> emission reductions in excess of its reserved allowances × 1.0 for all other units.

(2) To receive reserved allowances, the designated representative for a CAIR NO<sub>x</sub> unit must submit an application to the department, in a format specified by the department, within thirty (30) days of the effective date of this rule, demonstrating that it satisfies subdivision (1)(A)(i) through (1)(A)(iii). The department shall approve or deny the application within one hundred twenty (120) days after receipt of the application and designate the amount of allowances it has reserved for that unit at that time.

(3) The department shall assign reserved allowances to each eligible unit, based on the following formula:

Amount of reserved allowances, in tons per year = (eligible unit's baseline heat input as defined in subsection (c) ÷ sum of baseline heat input from all eligible units as defined in subsection (c)) × (95% × 20,155). The amount of reserved allowances shall be determined separately each year, 2007 and 2008, depending upon the number of approved applications for eligible units each year. No more than fifty percent (50%) of the compliance supplement pool shall be reserved for eligible units in 2007. The remainder of the compliance supplement pool shall be reserved for eligible units in 2008 and any demonstrations of need.

(4) In order to receive CAIR NO<sub>x</sub> allowances from the compliance supplement pool the following conditions must be met:

(A) The owners and operators of an eligible unit shall monitor and report the NO<sub>x</sub> emissions rate and the heat input of the unit in accordance with section 11 of this rule in each control period for which early reduction credit is requested.

(B) The CAIR designated representative of an eligible unit shall submit to the department by May 1, 2009, a request, in a format specified by the department, for allocation of an amount of CAIR NO<sub>x</sub> allowances from the compliance supplement pool identifying the amount of tons of emissions reductions it has achieved and demonstrating that it has satisfied subdivision (1).

(C) The actual NO<sub>x</sub> emission rate used in the emissions reduction calculation in subdivision (1)(C) shall be the monitored NO<sub>x</sub> emission rate for 2007 or 2008, respectively.

(D) Units that share a common stack shall meet the following requirements:

- (i) For each eligible unit that is part of a common stack group the restriction in subdivision (1)(B)(ii)(BB) is applied to the entire common stack group except as provided in item (ii).
- (ii) For a common stack group that has at least one (1) unit with post-combustion NO<sub>x</sub> control equipment, the restriction in subdivision (1)(B)(ii)(AA) for post-combustion NO<sub>x</sub> control equipment shall apply to the entire common stack group.
- (E) No more than fifty percent (50%) of the compliance supplement pool shall be reserved or allocated for emission reductions or excess emission reductions implemented in 2007. The remainder of the compliance supplement pool shall be allocated for emission reductions or excess emission reductions implemented in 2008 and demonstrations of need.
- (5) The department shall review each request under subdivision (4) and shall allocate CAIR NO<sub>x</sub> allowances from the compliance supplement pool for the control period in 2009 to CAIR NO<sub>x</sub> units, in accordance with the following procedures:
- (A) Upon receipt of each such request, the department shall make any necessary adjustments to the request to ensure that the amount of the CAIR NO<sub>x</sub> allowances requested meets the requirements of subdivisions (3) and (4). If an eligible unit achieved emission reductions less than or equivalent to the reserved allowances assigned to it under subdivision (3), the department shall allocate CAIR NO<sub>x</sub> allowances from the compliance supplement pool to the eligible unit equal to the actual emission reductions achieved by the eligible unit. Any reserved allowances not earned by an eligible unit shall remain in the compliance supplement pool to be distributed in accordance with clause (C).
- (B) To the extent an eligible unit achieved emission reductions in excess of the reserved allowances assigned to it under subdivision (3), the department shall allocate CAIR NO<sub>x</sub> allowances to the eligible unit equal to the amount of its reserved allowances, plus additional CAIR NO<sub>x</sub> allowances, if any, from the compliance supplement pool in accordance with clause (C).
- (C) Any CAIR NO<sub>x</sub> allowances that remain in the compliance supplement pool following allocation required by clauses (A) and (B) shall be allocated to eligible units that achieved emission reductions in excess of their reserved allowances. The department shall make allocations of the remaining CAIR NO<sub>x</sub> allowances in accordance with the following formula:  
 An eligible unit's additional CAIR NO<sub>x</sub> allowances from the compliance supplement pool = (unit's excess emissions reductions/ the total tons of adjusted excess NO<sub>x</sub> emissions reductions achieved by all eligible units) × the total of remaining CAIR NO<sub>x</sub> allowances in the compliance supplement pool following allocation under clauses (A) and (B).
- (6) For any CAIR NO<sub>x</sub> unit whose compliance with CAIR NO<sub>x</sub> emissions limitation for the control period in 2009 would create an undue risk to the reliability of electricity supply during such control period, the CAIR designated representative of the unit may request the allocation of CAIR NO<sub>x</sub> allowances from the compliance supplement pool in accordance with the following:
- (A) The CAIR designated representative of such CAIR NO<sub>x</sub> unit shall submit to the department by May 1, 2009, a request, in a format specified by the department, for allocation of an amount of CAIR NO<sub>x</sub> allowances from the compliance supplement pool not exceeding the minimum amount of CAIR NO<sub>x</sub> allowances necessary to remove such undue risk to the reliability of electricity supply.
- (B) In the request under clause (A), the CAIR designated representative of such CAIR NO<sub>x</sub> unit shall demonstrate that, in the absence of allocation to the unit of the amount of CAIR NO<sub>x</sub> allowances requested, the unit's compliance with CAIR NO<sub>x</sub> emissions limitation for the control period in 2009 would create an undue risk to the reliability of electricity supply during such control period. This demonstration must include a showing that it would not be feasible for the owners and operators of the unit to:
- (i) obtain a sufficient amount of electricity from other electricity generation facilities, during the installation of control technology at the unit for compliance with the CAIR NO<sub>x</sub> emissions limitation, to prevent such undue risk; or
- (ii) obtain under subdivisions (5) and (7), or otherwise obtain, a sufficient amount of CAIR NO<sub>x</sub> allowances to prevent such undue risk.
- (7) The department shall review each request under subdivision (6) and shall allocate CAIR NO<sub>x</sub> allowances, not to exceed one thousand eight (1,008) allowances, for the control period in 2009 to CAIR NO<sub>x</sub> units covered by such request. If no requests for allowances are received under subdivision (6), the allowances shall be available for allocation under subdivision (5)(C).
- (8) By November 30, 2009, the department shall determine, and submit to the U.S. EPA the allocations of CAIR NO<sub>x</sub> allowances from the compliance supplement pool under subdivisions (5) and (7).
- (9) By January 1, 2010, the U.S. EPA will record the allocations under subdivision (8).
- (h) For projects that reduce NO<sub>x</sub> emissions through the implementation of energy efficiency or renewable energy measures, or both, implemented during a control period beginning January 1, 2009, the

department shall allocate NO<sub>x</sub> allowances in accordance with the following procedures:

(1) The energy efficiency and renewable energy allocation set-aside shall be allocated NO<sub>x</sub> allowances equal to the following:

(A) Five hundred forty-five (545) tons for a control period during 2009 through 2014.

(B) Four hundred fifty-four (454) tons for a control period during 2015 and thereafter.

(2) Any person may submit to the department a request, in writing, or in a format specified by the department, for NO<sub>x</sub> allowances as follows:

(A) Sponsors of energy efficiency or renewable energy projects in section 2(38)(A) through 2(38)(H) of this rule may request the reservation of NO<sub>x</sub> allowances, for one (1) control period in which the project is implemented. Project sponsors may reapply each year, not to exceed five (5) control periods for energy efficiency projects in sections 2(38)(A), 2(38)(B), 2(38)(E), and 2(38)(F) of this rule and for an unlimited number of years for projects in sections 2(38)(C), 2(38)(D), and 2(38)(H) of this rule. Requests for allowances may be made for projects implemented two (2) years before the effective date of this rule. Projects must equal at least one (1) ton of NO<sub>x</sub> emissions and multiple projects may be aggregated into one (1) allowance allocation request to equal one (1) or more tons of NO<sub>x</sub> emissions.

(B) The NO<sub>x</sub> allowance allocation request must be submitted by May 1 of the calendar year for which the NO<sub>x</sub> allowance allocation is requested.

(C) The NO<sub>x</sub> allowance allocation request for an integrated gasification combined cycle project under section 2(40)(G) of this rule must be submitted by May 1 of the calendar year for which the NO<sub>x</sub> allowance allocation is requested and after the date on which the department issues a permit to construct the CAIR NO<sub>x</sub> unit. For integrated gasification combined cycle projects, project sponsors may request the reservation of NO<sub>x</sub> allowances, based on the number of kilowatt hours of electricity generated based on an eighty-five percent (85%) capacity factor and expected heat rate of the unit. Project sponsors may reapply each year, not to exceed five (5) control periods. Requests for allowances may be made only for integrated gasification combined cycle projects which first start commercial operations in 2009 and beyond.

(3) In a NO<sub>x</sub> allowance allocation request made under this subsection, the project sponsor may request for a control period, NO<sub>x</sub> allowances not to exceed the following:

(A) Projects in section 2(38)(A) of this rule that claim allowances based upon reductions in the consumption of electricity and that are sponsored by end-users or nonutility third parties receive allowances based upon the number of kilowatt hours of electricity saved during a control period and the following formula:

$$\text{Allowances} = (\text{kWS} \times 0.0015) / 2,000$$

Where: Allowances = The number of allowances awarded to a project sponsor.

kWS = The number of kilowatt hours of electricity saved during a control period by the project.

(B) Projects in section 2(38)(A) of this rule that claim allowances based upon reductions in the consumption of electricity and that are sponsored by electric generating units shall be awarded allowances according to the following formula:

$$\text{Allowances} = (\text{kWS} \times 0.00075) / 2,000$$

Where: Allowances = The number of allowances awarded to a project sponsor.

kWS = The number of kilowatt hours of electricity saved during a control period by the project.

(C) Projects in section 2(38)(A) of this rule that claim allowances based upon reductions in the consumption of energy other than electricity and that are not CAIR NO<sub>x</sub> units shall be awarded allowances according to the following formula:

$$\text{Allowances} = (((\text{Et1}/\text{Pt1}) - (\text{Et2}/\text{Pt2})) \times \text{Pt2} \times \text{NPt2} \times (\text{NPt1}/\text{NPt2})) / 2,000$$

Where: Allowances = The number of allowances awarded to a project sponsor.

Et1 = Energy consumed per control period before project implementation.

Pt1 = Units of product produced per control period before project implementation.

Et2 = Energy consumed in the most recent control period.

Pt2 = Units of product produced in the most recent control period.

NPt1 = NO<sub>x</sub> produced during the consumption of energy, measured in pounds per million British thermal units before project implementation.

NPt2 = NO<sub>x</sub> produced during the consumption of energy, measured in pounds per



million British thermal units in the most recent control period.

(D) Projects in section 2(38)(A) of this rule that claim allowances based upon reductions in the consumption of energy other than electricity and that are CAIR NO<sub>x</sub> units shall be awarded allowances according to the following formula:

$$\text{Allowances} = (((\text{Et1}/\text{Pt1}) - (\text{Et2}/\text{Pt2})) \times \text{Pt2} \times \text{NPt2} \times (\text{NPt1}/\text{NPt2}) \times 0.5)/2,000$$

Where: Allowances = The number of allowances awarded to a project sponsor.  
 Et1 = Energy consumed per control period before project implementation.  
 Pt1 = Units of product produced per control period before project implementation.  
 Et2 = Energy consumed in the most recent control period.  
 Pt2 = Units of product produced in the most recent control period.  
 NPt1 = NO<sub>x</sub> produced during the production process, measured in pounds per million British thermal units before project implementation.  
 NPt2 = NO<sub>x</sub> produced during the production process, measured in pounds per million British thermal units in the most recent control period.

Product produced, as used in the formulas in this clause and clause (C), may include manufactured items; raw, intermediate, or final materials; or other products measured in discrete units and produced as a result of the consumption of energy in a specific process or piece of equipment. Claims for allowances must include documentation of NO<sub>x</sub> emissions per British thermal unit both before and after implementation of the project for the energy-consuming process for which energy savings are claimed.

(E) Projects in section 2(38)(B) of this rule that claim allowances based upon highly efficient electricity generation using systems such as combined cycle, microturbines, and fuel cell systems for the predominant use of a single end user, that meet the thresholds specified in section 2(38)(B) of this rule, that are not CAIR NO<sub>x</sub> units under section 1 of this rule, and that are sponsored by end-users or nonutility third parties, receive allowances based upon the net amount of electricity generated during a control period and the following formula:

$$\text{Allowances} = (\text{kWG} \times (0.0015 - \text{NO}_x))/2,000$$

Where: Allowances = The number of allowances awarded to a project sponsor.  
 kWG = The number of net kilowatt hours of electricity generated during a control period by the project.  
 NO<sub>x</sub> = The amount of NO<sub>x</sub> produced during the generation of electricity, measured in pounds per kilowatt hour.

(F) Projects in section 2(38)(B) of this rule that claim allowances based upon highly efficient combined heat and power systems for the predominant use of a single end user, that meet the thresholds specified in section 2(38)(B) of this rule, that are not CAIR NO<sub>x</sub> units under section 1 of this rule, and that are sponsored by end-users or nonutility third parties, receive allowances based upon the net amount of energy generated and used during a control period and the following formula:

$$\text{Allowances} = (\text{NO}_x \text{ conventional} - \text{NO}_x \text{ CHP})/2,000$$

Where: Allowances = The number of allowances awarded to a project sponsor.  
 NO<sub>x</sub> conventional =  $[(0.15 \times 3,412 \times \text{kWG} / 0.34) + (0.17 \times \text{HeatOut} / 0.8)] / 1,000,000$   
 NO<sub>x</sub> CHP =  $(\text{BtuIn} \times \text{NO}_x \text{ Rate})/1,000,000$   
 Where: kWG = The number of net kilowatt hours of electricity generated during a control period by the project.  
 HeatOut = The number of British thermal units (Btu) of heat or steam effectively used for space, water, or industrial process heat during a control period by the project.  
 NO<sub>x</sub> Rate = NO<sub>x</sub> emitted during normal system operation by the project, measured in pounds per million Btu of fuel input.  
 BtuIn = The number of British thermal units (Btu) of fuel used to produce electricity, heat, or steam during a control period by the project.

(G) Projects in section 2(38)(B) and 2(38)(G) of this rule receive allowances based upon the number

of kilowatt hours of electricity each project generates during a control period. Highly efficient electricity generation projects using systems such as combined cycle, microturbines, and fuel cell systems for the predominant use of a single end user, that meet a rated energy efficiency threshold of sixty percent (60%) for combined cycle systems and forty percent (40%) for microturbines and fuel cells; or integrated gasification combined cycle, and that are sponsored by NO<sub>x</sub> allowance account holders that own or operate units that produce electricity and are subject to the emission limitations of this rule shall receive allowances based upon the net amount of electricity generated during a control period and the following formula:

$$\text{Allowances} = (\text{kWG} \times (0.0015 - \text{NO}_x) \times 0.5) / 2,000$$

Where: Allowances = The number of allowances awarded to a project sponsor.  
 kWG = The number of net kilowatt hours of electricity generated during a control period by the project.  
 NO<sub>x</sub> = The amount of NO<sub>x</sub> produced during the generation of electricity, measured in pounds per kilowatt hour.

(H) Projects in subdivision (2) and specified in section 2(38)(C) and 2(38)(D) of this rule receive allowances based upon the number of kilowatt hours of electricity each project generates during a control period and according to the following formula:

$$\text{Allowances} = (\text{kWG} \times 0.0015) / 2,000$$

Where: Allowances = The number of allowances awarded to a project sponsor.  
 kWG = The number of kilowatt hours of electricity generated during a control period by the project.

(I) Projects in subdivision (2) and specified in section 2(38)(E) and 2(38)(F) of this rule receive allowances based upon the difference in emitted NO<sub>x</sub> per megawatt hour of operation for units before and after replacement or improvement and according to the following formula:

$$\text{Allowances} = ((\text{Et1} - \text{Et2}) \times h) \times 0.5 / 2,000$$

Where: Allowances = The number of allowances awarded to a project sponsor.  
 Et1 = The emission rate in pounds per megawatt hour of NO<sub>x</sub> of the unit before improvement or replacement.  
 Et2 = The emission rate in pounds per megawatt hour of NO<sub>x</sub> of the unit after improvement or replacement.  
 h = The number of megawatt hours of operation during the control period.

(J) Projects in section 2(38)(A) of this rule based upon energy efficiency other than electricity savings shall be awarded allowances according to the following formula:

$$\text{Allowances} = (\text{NO}_x \text{ Rate} \times \text{HeatOut} / 0.8) / 1,000,000 / 2,000$$

Where: Allowances = The number of allowances awarded to a project sponsor.  
 NO<sub>x</sub> Rate = 0.17 lb/MMBtu or the actual NO<sub>x</sub> emission rate, whichever is greater.  
 HeatOut = The number of British thermal units (Btu) of heat or steam effectively used for space, water, or industrial process heat during a control period by the project.

(K) Projects in section 2(38)(H) of this rule using renewable fuels to displace coal, natural gas, or oil combustion and reduce NO<sub>x</sub> emissions shall be awarded allowances according to the following formula:

$$\text{Allowances} = ((0.17 \times \text{Fuel-Input}) / 1,000,000) / 2,000$$

Where: Allowances = The number of allowances awarded to a project sponsor.  
 Fuel-Input = The amount of heat input, in Btu, from the renewable fuel.

(4) The department shall review, reserve, and allocate CAIR NO<sub>x</sub> allowances pursuant to, each allowance allocation request by July 31 each year as follows:

(A) Upon receipt of the NO<sub>x</sub> allowance allocation request, the department shall make any necessary adjustments to the request to ensure that the number of allowances specified in the request is consistent with the requirements of subdivision (3).

(B) If the energy efficiency and renewable energy allocation set-aside for the control period for which NO<sub>x</sub> allowances are requested has an amount of NO<sub>x</sub> allowances greater than or equal to the number requested, as adjusted under clause (A), the department shall reserve the amount of the NO<sub>x</sub> allowances requested, as adjusted under clause (A), to the energy efficiency and renewable energy projects.

(C) If the energy efficiency and renewable energy allocation set-aside for the control period for which NO<sub>x</sub> allowances are requested has an amount of NO<sub>x</sub> allowances less than the number requested, as adjusted under clause (A), but the new unit set-aside is under-subscribed, the department shall reserve the amount of the NO<sub>x</sub> allowances requested with the difference reserved from the new unit set-aside.

(D) If the energy efficiency and renewable energy allocation set-aside for the control period for which NO<sub>x</sub> allowances are requested has an amount of NO<sub>x</sub> allowances less than the number requested, as adjusted under clause (A), and the new unit set-aside is over-subscribed, the department shall reserve the allocation set-aside on a pro rata basis, except that allowances requested for projects under section 2(38)(A), 2(38)(C), 2(38)(D), and 2(38)(H) of this rule shall be reserved first, reserved for projects under section 2(38)(B) and 2(38)(G) of this rule second, reserved for projects under section 2(38)(E) of this rule third, and reserved for projects under section 2(38)(F) of this rule fourth.

(E) Any unreserved allowances shall be distributed as follows:

(i) Fifty percent (50%) of the unreserved allowances shall be retained by the state to fund a grant program for energy efficiency and renewable energy projects. The grant program projects do not need to meet the one (1) ton of NO<sub>x</sub> emissions for singular or aggregated projects under subdivision (2).

(ii) Fifty percent (50%) of the unreserved allowances shall be allocated to CAIR NO<sub>x</sub> units on a pro rata basis.

(5) After the completion of the control period for which CAIR NO<sub>x</sub> allowances had been reserved, the project sponsor shall submit the results of the actual savings or generation by January 31 the following year. Allowances shall be awarded only after verification of project implementation and certification of energy, emission, or electricity savings, as appropriate. The department shall consult the office of the lieutenant governor concerning verification and certification.

(6) The department shall allocate the appropriate amount of CAIR NO<sub>x</sub> allowances based on the review of the submittal of actual savings or generation results under subdivision (5) and notify the CAIR NO<sub>x</sub> designated representative that submitted the request and the U.S. EPA of the number of NO<sub>x</sub> allowances allocated for the control period by March 31 of each year. Any person to whom the department allocates NO<sub>x</sub> allowances shall establish a general account under section 9(b) of this rule.

\*These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.

(Air Pollution Control Board; [326 IAC 24-1-8](#))

#### **[326 IAC 24-1-9](#) CAIR NO<sub>x</sub> allowance tracking system**

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 9. (a) Except as provided in section 12(f)(7) of this rule, upon receipt of a complete certificate of representation under section 6(h) of this rule, the U.S. EPA will establish a compliance account for the CAIR NO<sub>x</sub> source for which the certificate of representation was submitted unless the source already has a compliance account.

(b) Any person may apply to open a general account for the purpose of holding and transferring CAIR NO<sub>x</sub> allowances. An application for a general account may designate one (1) and only one (1) CAIR authorized account representative and one (1) and only one (1) alternate CAIR authorized account representative who may act on behalf of the CAIR authorized account representative. The agreement by which the alternate CAIR authorized account representative is selected shall include a procedure for authorizing the alternate CAIR authorized account representative to act in lieu of the CAIR authorized account representative. The establishment of the general account shall be subject to the following:

(1) A complete application for a general account shall be submitted to the U.S. EPA and shall include the following elements in a format prescribed by the U.S. EPA:

(A) The following information concerning the CAIR authorized account representative and any alternate CAIR authorized account representative:

- (i) Name.
- (ii) Mailing address.
- (iii) E-mail address, if any.
- (iv) Telephone number.
- (v) Facsimile transmission number, if any.
- (B) Organization name and type of organization, if applicable.
- (C) A list of all persons subject to a binding agreement for the CAIR authorized account representative and any alternate CAIR authorized account representative to represent their ownership interest with respect to the CAIR NO<sub>x</sub> allowances held in the general account.
- (D) The following certification statement by the CAIR authorized account representative and any alternate CAIR authorized account representative: "I certify that I was selected as the CAIR authorized account representative or the alternate CAIR authorized account representative, as applicable, by an agreement that is binding on all persons who have an ownership interest with respect to CAIR NO<sub>x</sub> allowances held in the general account. I certify that I have all the necessary authority to carry out my duties and responsibilities under the CAIR NO<sub>x</sub> annual trading program on behalf of such persons and that each such person shall be fully bound by my representations, actions, inactions, or submissions and by any order or decision issued to me by the U.S. EPA or a court regarding the general account."
- (E) The signature of the CAIR authorized account representative and any alternate CAIR authorized account representative and the dates signed.
- (F) Unless otherwise required by the department or the U.S. EPA, documents of agreement referred to in the application for a general account shall not be submitted to the department or the U.S. EPA. Neither the department nor the U.S. EPA shall be under any obligation to review or evaluate the sufficiency of such documents, if submitted.
- (2) Upon receipt by the U.S. EPA of a complete application for a general account under subdivision (1), the following shall apply:
  - (A) The U.S. EPA will establish a general account for the person or persons for whom the application is submitted.
  - (B) The CAIR authorized account representative and any alternate CAIR authorized account representative for the general account shall represent and, by his or her representations, actions, inactions, or submissions, legally bind each person who has an ownership interest with respect to CAIR NO<sub>x</sub> allowances held in the general account in all matters pertaining to the CAIR NO<sub>x</sub> annual trading program, notwithstanding any agreement between the CAIR authorized account representative or any alternate CAIR authorized account representative and such person. Any such person shall be bound by any order or decision issued to the CAIR authorized account representative or any alternate CAIR authorized account representative by the U.S. EPA or a court regarding the general account.
  - (C) Any representation, action, inaction, or submission by any alternate CAIR authorized account representative shall be deemed to be a representation, action, inaction, or submission by the CAIR authorized account representative.
  - (D) Each submission concerning the general account shall be submitted, signed, and certified by the CAIR authorized account representative or any alternate CAIR authorized account representative for the persons having an ownership interest with respect to CAIR NO<sub>x</sub> allowances held in the general account. Each such submission shall include the following certification statement by the CAIR authorized account representative or any alternate CAIR authorized account representative: "I am authorized to make this submission on behalf of the persons having an ownership interest with respect to the CAIR NO<sub>x</sub> allowances held in the general account. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment."
  - (E) The U.S. EPA will accept or act on a submission concerning the general account only if the submission has been made, signed, and certified in accordance with clause (D).
- (3) The following shall apply to changing the CAIR authorized account representative or alternate CAIR authorized account representative, and changes in persons with ownership interest:
  - (A) The CAIR authorized account representative for a general account may be changed at any time upon receipt by the U.S. EPA of a superseding complete application for a general account under subdivision (1). Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous CAIR authorized account representative before the time and date when

the U.S. EPA receives the superseding application for a general account shall be binding on the new CAIR authorized account representative and the persons with an ownership interest with respect to the CAIR NO<sub>x</sub> allowances in the general account.

(B) The alternate CAIR authorized account representative for a general account may be changed at any time upon receipt by the U.S. EPA of a superseding complete application for a general account under subdivision (1). Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous alternate CAIR authorized account representative before the time and date when the U.S. EPA receives the superseding application for a general account shall be binding on the new alternate CAIR authorized account representative and the persons with an ownership interest with respect to the CAIR NO<sub>x</sub> allowances in the general account.

(C) In the event a person having an ownership interest with respect to CAIR NO<sub>x</sub> allowances in the general account is not included in the list of such persons in the application for a general account, such person shall be deemed to be subject to and bound by the application for a general account, the representation, actions, inactions, and submissions of the CAIR authorized account representative and any alternate CAIR authorized account representative of the account, and the decisions and orders of the U.S. EPA or a court, as if the person were included in such list.

(D) Within thirty (30) days following any change in the persons having an ownership interest with respect to CAIR NO<sub>x</sub> allowances in the general account, including the addition of a new person, the CAIR authorized account representative or any alternate CAIR authorized account representative shall submit a revision to the application for a general account amending the list of persons having an ownership interest with respect to the CAIR NO<sub>x</sub> allowances in the general account to include the change.

(4) Once a complete application for a general account under subdivision (1) has been submitted and received, the U.S. EPA will rely on the application unless and until a superseding complete application for a general account under subdivision (1) is received by the U.S. EPA.

(5) Except as provided in subdivision (3)(A) or (3)(B), no objection or other communication submitted to the U.S. EPA concerning the authorization, or any representation, action, inaction, or submission of the CAIR authorized account representative or any alternate CAIR authorized account representative for a general account shall affect any representation, action, inaction, or submission of the CAIR authorized account representative or any alternate CAIR authorized account representative or the finality of any decision or order by the U.S. EPA under the CAIR NO<sub>x</sub> annual trading program.

(6) The U.S. EPA will not adjudicate any private legal dispute concerning the authorization or any representation, action, inaction, or submission of the CAIR authorized account representative or any alternative CAIR authorized account representative for a general account, including private legal disputes concerning the proceeds of CAIR NO<sub>x</sub> allowance transfers.

(c) The U.S. EPA will assign a unique identifying number to each account established under subsection (a) or (b).

(d) Following the establishment of a CAIR NO<sub>x</sub> allowance tracking system account, all submissions to the U.S. EPA pertaining to the account, including, but not limited to, submissions concerning the deduction or transfer of CAIR NO<sub>x</sub> allowances in the account, shall be made only by the CAIR authorized account representative for the account.

(e) By September 30, 2007, the U.S. EPA will record in the CAIR NO<sub>x</sub> source's compliance account the CAIR NO<sub>x</sub> allowances allocated for the CAIR NO<sub>x</sub> units at the source, as submitted by the department in accordance with section 8(b)(1) of this rule, for the control periods in 2009, 2010, 2011, 2012, 2013, and 2014.

(f) By December 1, 2008, and every six (6) years thereafter, the U.S. EPA will record in the CAIR NO<sub>x</sub> source's compliance account the CAIR NO<sub>x</sub> allowances allocated for the CAIR NO<sub>x</sub> units at the source, as submitted by the department in accordance with section 8(b)(2) of this rule, for the control periods seven (7), eight (8), nine (9), ten (10), eleven (11), and twelve (12) years after the allowance allocation.

(g) By December 1, 2009, and December 1 of each year thereafter, the U.S. EPA will record in the CAIR NO<sub>x</sub> source's compliance account the CAIR NO<sub>x</sub> allowances allocated for the CAIR NO<sub>x</sub> units at the source, as submitted by the department in accordance with section 8(b)(3) of this rule, for the control period in the year of the applicable deadline for recordation under this subsection.



(h) When recording the allocation of CAIR NO<sub>x</sub> allowances for a CAIR NO<sub>x</sub> unit in a compliance account, the U.S. EPA will assign each CAIR NO<sub>x</sub> allowance a unique identification number that includes digits identifying the year of the control period for which the CAIR NO<sub>x</sub> allowance is allocated.

(i) The CAIR NO<sub>x</sub> allowances are available to be deducted for compliance with a source's CAIR NO<sub>x</sub> emissions limitation for a control period in a given calendar year only if the CAIR NO<sub>x</sub> allowances:

- (1) were allocated for the control period in the year or a prior year; and
- (2) are held in the compliance account as of the allowance transfer deadline for the control period or are transferred into the compliance account by a CAIR NO<sub>x</sub> allowance transfer correctly submitted for recordation under section 10(a) through 10(d) by the allowance transfer deadline for the control period.

(j) The following shall apply to deductions for purposes of compliance with a source's emissions limitation:

(1) Following the recordation, in accordance with section 10(b) through 10(d) of this rule, of CAIR NO<sub>x</sub> allowance transfers submitted for recordation in a source's compliance account by the allowance transfer deadline for a control period, the U.S. EPA will deduct from the compliance account CAIR NO<sub>x</sub> allowances available under subsection (i) in order to determine whether the source meets the CAIR NO<sub>x</sub> emissions limitation for the control period, as follows:

(A) until the amount of CAIR NO<sub>x</sub> allowances deducted equals the number of tons of total nitrogen oxides emissions, determined in accordance with section 11 of this rule, from all CAIR NO<sub>x</sub> units at the source for the control period; or

(B) if there are insufficient CAIR NO<sub>x</sub> allowances to complete the deductions in clause (A), until no more CAIR NO<sub>x</sub> allowances available under subsection (i) remain in the compliance account.

(2) The CAIR authorized account representative for a source's compliance account may request that specific CAIR NO<sub>x</sub> allowances, identified by serial number, in the compliance account be deducted for emissions or excess emissions for a control period in accordance with subdivision (1), (4), or (5). Such request shall be submitted to the U.S. EPA by the allowance transfer deadline for the control period and include, in a format prescribed by the U.S. EPA, the identification of the CAIR NO<sub>x</sub> source and the appropriate serial numbers.

(3) The U.S. EPA will deduct CAIR NO<sub>x</sub> allowances under subdivision (1), (4), or (5) from the source's compliance account, in the absence of an identification or in the case of a partial identification of CAIR NO<sub>x</sub> allowances by serial number under subdivision (2), on a first-in, first-out (FIFO) accounting basis in the following order:

(A) Any CAIR NO<sub>x</sub> allowances that were allocated to the units at the source, in the order of recordation.

(B) Any CAIR NO<sub>x</sub> allowances that were allocated to any entity and transferred and recorded in the compliance account under section 10 of this rule, in the order of recordation.

(4) After making the deductions for compliance under subdivision (1) for a control period in a calendar year in which the CAIR NO<sub>x</sub> source has excess emissions, the U.S. EPA will deduct from the source's compliance account an amount of CAIR NO<sub>x</sub> allowances, allocated for the control period in the immediately following calendar year, equal to three (3) times the number of tons of the source's excess emissions.

(5) Any allowance deduction required under subdivision (4) shall not affect the liability of the owners and operators of the CAIR NO<sub>x</sub> source or the CAIR NO<sub>x</sub> units at the source for any fine, penalty, or assessment, or their obligation to comply with any other remedy, for the same violations, as ordered under the Clean Air Act or applicable state law.

(6) The U.S. EPA will record in the appropriate compliance account all deductions from such an account under subdivision (1), (4), and (5), and section 12 of this rule.

(7) The U.S. EPA may review and conduct independent audits concerning any submission under the CAIR NO<sub>x</sub> annual trading program and make appropriate adjustments of the information in the submissions.

(8) The U.S. EPA may deduct CAIR NO<sub>x</sub> allowances from or transfer CAIR NO<sub>x</sub> allowances to a source's compliance account based on the information in the submissions, as adjusted under subdivision (7), and record such deductions and transfers.

(k) CAIR NO<sub>x</sub> allowances may be banked for future use or transfer in a compliance account or a general account. Any CAIR NO<sub>x</sub> allowance that is held in a compliance account or a general account shall remain in such account unless and until the CAIR NO<sub>x</sub> allowance is deducted or transferred under

subsection (i), (j), or (l) or section 10 or 12 of this rule.

(l) The U.S. EPA may at its sole discretion and on its own motion, correct any error in any CAIR NO<sub>x</sub> allowance tracking system account. Within ten (10) business days of making such correction, the U.S. EPA will notify the CAIR authorized account representative for the account.

(m) The CAIR authorized account representative of a general account may submit to the U.S. EPA a request to close the account, which shall include a correctly submitted allowance transfer under section 10(a) through 10(d) of this rule for any CAIR NO<sub>x</sub> allowances in the account to one (1) or more other CAIR NO<sub>x</sub> allowance tracking system accounts.

(n) If a general account has no allowance transfers in or out of the account for a twelve (12) month period or longer and does not contain any CAIR NO<sub>x</sub> allowances, the U.S. EPA may notify the CAIR authorized account representative for the account that the account shall be closed following twenty (20) business days after the notice is sent. The account shall be closed after the twenty (20) day period unless, before the end of the twenty (20) day period, the U.S. EPA receives a correctly submitted transfer of CAIR NO<sub>x</sub> allowances into the account under section 10(a) through 10(d) of this rule or a statement submitted by the CAIR authorized account representative demonstrating to the satisfaction of the U.S. EPA good cause as to why the account should not be closed.

(Air Pollution Control Board; [326 IAC 24-1-9](#))

#### **[326 IAC 24-1-10](#) CAIR NO<sub>x</sub> allowance transfers**

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 10. (a) A CAIR authorized account representative seeking recordation of a CAIR NO<sub>x</sub> allowance transfer shall submit the transfer to the U.S. EPA. To be considered correctly submitted, the CAIR NO<sub>x</sub> allowance transfer shall include the following elements, in a format specified by the U.S. EPA:

- (1) The account numbers for both the transferor and transferee accounts.
- (2) The serial number of each CAIR NO<sub>x</sub> allowance that is in the transferor account and that is to be transferred.
- (3) The name and signature of the CAIR authorized account representative of the transferor account, and the date signed.

(b) Within five (5) business days, except as provided in subsection (c), of receiving a CAIR NO<sub>x</sub> allowance transfer, the U.S. EPA will record a CAIR NO<sub>x</sub> allowance transfer by moving each CAIR NO<sub>x</sub> allowance from the transferor account to the transferee account as specified by the request, provided the following:

- (1) The transfer is correctly submitted under subsection (a).
- (2) The transferor account includes each CAIR NO<sub>x</sub> allowance identified by serial number in the transfer.

(c) A CAIR NO<sub>x</sub> allowance transfer that is submitted for recordation after the allowance transfer deadline for a control period and that includes any CAIR NO<sub>x</sub> allowances allocated for any control period before such allowance transfer deadline will not be recorded until after the U.S. EPA completes the deductions under section 9(i) and 9(j) of this rule for the control period immediately before such allowance transfer deadline.

(d) Where a CAIR NO<sub>x</sub> allowance transfer submitted for recordation fails to meet the requirements of subsection (b), the U.S. EPA will not record such transfer.

(e) The following notification requirements shall apply to CAIR NO<sub>x</sub> allowance transfers:

- (1) Within five (5) business days of recordation of a CAIR NO<sub>x</sub> allowance transfer under subsections
- (b) and (c), the U.S. EPA will notify the CAIR authorized account representatives of both the transferor

and transferee accounts.

(2) Within ten (10) business days of receipt of a CAIR NO<sub>x</sub> allowance transfer that fails to meet the requirements of subsection (b), the U.S. EPA will notify the CAIR authorized account representatives of both accounts subject to the transfer of the decision not to record the transfer and the reasons for such nonrecording.

(f) Nothing in this section shall preclude the submission of a CAIR NO<sub>x</sub> allowance transfer for recording following notification of nonrecording.

(Air Pollution Control Board; [326 IAC 24-1-10](#))

### **[326 IAC 24-1-11](#) NO<sub>x</sub> monitoring and reporting requirements**

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 11. (a) The owners and operators, and to the extent applicable, the CAIR designated representative, of a CAIR NO<sub>x</sub> unit, shall comply with the monitoring, record keeping, and reporting requirements as provided in this rule and in 40 CFR 75, Subpart H\*. For purposes of complying with such requirements, the definitions in section 2 of this rule and 40 CFR 72.2\* shall apply, and the terms affected unit, designated representative, and continuous emission monitoring system (CEMS) in 40 CFR 75\* shall be replaced by the terms CAIR NO<sub>x</sub> unit, CAIR designated representative, and continuous emission monitoring system (CEMS) respectively, as defined in section 2 of this rule. The owner or operator of a unit that is not a CAIR NO<sub>x</sub> unit but that is monitored under 40 CFR 75.72(b)(2)(ii)\* shall comply with the same monitoring, record keeping, and reporting requirements as a CAIR NO<sub>x</sub> unit.

(b) The owner or operator of each CAIR NO<sub>x</sub> unit shall do the following:

(1) Install all monitoring systems required under this section for monitoring NO<sub>x</sub> mass emissions and individual unit heat input. This includes all systems required to monitor NO<sub>x</sub> emission rate, NO<sub>x</sub> concentration, stack gas moisture content, stack gas flow rate, CO<sub>2</sub> or O<sub>2</sub> concentration, and fuel flow rate, as applicable, in accordance with 40 CFR 75.71\* and 40 CFR 75.72\*.

(2) Successfully complete all certification tests required under subsections (f) through (j) and meet all other requirements of this section and 40 CFR 75\* applicable to the monitoring systems under subdivision (1).

(3) Record, report, and quality-assure the data from the monitoring systems under subdivision (1).

(c) Except as provided in subsection (p), the owner or operator shall meet the monitoring system certification and other requirements of subsection (b)(1) and (b)(2) on or before the following dates. The owner or operator shall record, report, and quality-assure the data from the monitoring systems under subsection (b)(1) on and after the following dates:

(1) For the owner or operator of a CAIR NO<sub>x</sub> unit that commences commercial operation before July 1, 2007, by January 1, 2008.

(2) For the owner or operator of a CAIR NO<sub>x</sub> unit that commences commercial operation on or after July 1, 2007, by the later of the following dates:

(A) January 1, 2008.

(B) The earlier of:

(i) one hundred eighty (180) calendar days after the date on which the unit commences commercial operation; or

(ii) ninety (90) unit operating days after the date on which the unit commences commercial operation.

(3) For the owner or operator of a CAIR NO<sub>x</sub> unit for which construction of a new stack or flue or installation of add-on NO<sub>x</sub> emission controls is completed after the applicable deadline under subdivision (1), (2), (4), or (5), compliance by the earlier of:

(A) one hundred eighty (180) calendar days after the date on which emissions first exit to the atmosphere through the new stack or flue or add-on NO<sub>x</sub> emissions controls; or

(B) ninety (90) unit operating days after the date on which emissions first exit to the atmosphere through the new stack or flue or add-on NO<sub>x</sub> emissions controls.

(4) Notwithstanding the dates in subdivisions (1) and (2), for the owner or operator of a unit for which a

CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under section 12 of this rule, by the date specified in section 12(f)(2) through (f)(4) of this rule.

(5) Notwithstanding the dates in subdivisions (1) and (2), for the owner or operator of a CAIR NO<sub>x</sub> opt-in unit under section 12 of this rule, by the date on which the CAIR NO<sub>x</sub> opt-in unit enters the CAIR NO<sub>x</sub> annual trading program as provided in section 12(9) of this rule.

(d) The owner or operator of a CAIR NO<sub>x</sub> unit that does not meet the applicable compliance date set forth in subsection (c) for any monitoring system under subsection (b)(1) shall, for each such monitoring system, determine, record, and report maximum potential or, as appropriate, minimum potential, values for NO<sub>x</sub> concentration, NO<sub>x</sub> emission rate, stack gas flow rate, stack gas moisture content, fuel flow rate, and any other parameters<sup>x</sup> required to determine NO<sub>x</sub> mass emissions and heat input in accordance with 40 CFR 75.31(b)(2) or 40 CFR 75.31(c)(3)\*, 40 CFR 75<sup>x</sup>, Appendix D, Section 2.4\*, or 40 CFR 75, Appendix E, Section 2.5\*, as applicable.

(e) The following shall apply to any monitoring system, alternative monitoring system, alternative reference method, or any other alternative for a CEMS required under this rule:

(1) No owner or operator of a CAIR NO<sub>x</sub> unit shall use any alternative monitoring system, alternative reference method, or any other alternative to any requirement of this section without having obtained prior written approval in accordance with subsection (o).

(2) No owner or operator of a CAIR NO<sub>x</sub> unit shall operate the unit so as to discharge, or allow to be discharged, NO<sub>x</sub> emissions to the atmosphere without accounting for all such emissions in accordance with the applicable provisions of this section and 40 CFR 75\*.

(3) No owner or operator of a CAIR NO<sub>x</sub> unit shall disrupt the continuous emission monitoring system, any portion thereof, or any other approved emission monitoring method, and thereby avoid monitoring and recording NO<sub>x</sub> mass emissions discharged into the atmosphere or heat input, except for periods of recertification or periods when calibration, quality assurance testing, or maintenance is performed in accordance with the applicable provisions of this section and 40 CFR 75\*.

(4) No owner or operator of a CAIR NO<sub>x</sub> unit shall retire or permanently discontinue use of the continuous emission monitoring system, any component thereof, or any other approved monitoring system under this section, except under any one (1) of the following circumstances:

(A) During the period that the unit is covered by an exemption under section 3 of this rule.

(B) The owner or operator is monitoring emissions from the unit with another certified monitoring system approved, in accordance with the applicable provisions of this section and 40 CFR 75\*, by the department for use at that unit that provides emission data for the same pollutant or parameter as the retired or discontinued monitoring system.

(C) The CAIR designated representative submits notification of the date of certification testing of a replacement monitoring system for the retired or discontinued monitoring system in accordance with subsection (h)(3)(A).

(f) The owner or operator of a CAIR NO<sub>x</sub> unit shall be exempt from the initial certification requirements of this subsection and subsections (g) through (j) for a monitoring system under subsection (b)(1) if the following conditions are met:

(1) The monitoring system has been previously certified in accordance with 40 CFR 75\*.

(2) The applicable quality-assurance and quality-control requirements of 40 CFR 75.21\*, 40 CFR 75, Appendix B\*, 40 CFR 75, Appendix D\*, and 40 CFR 75, Appendix E\* are fully met for the certified monitoring system described in subdivision (1).

The recertification provisions of this subsection and subsections (g) through (j) shall apply to a monitoring system under subsection (b)(1) exempt from initial certification requirements under this subsection.

(g) If the U.S. EPA has previously approved a petition under 40 CFR 75.17(a)\* or 40 CFR 75.17(a)(b)\* for apportioning the NO<sub>x</sub> emission rate measured in a common stack or a petition under 40 CFR 75.66\* for an alternative to a requirement in 40 CFR 75.12\* or 40 CFR 75.17\*, the CAIR designated representative shall resubmit the petition to the U.S. EPA under subsection (o)(1) to determine whether the approval applies under the CAIR NO<sub>x</sub> annual trading program.

(h) Except as provided in subsection (f), the owner or operator of a CAIR NO<sub>x</sub> unit shall comply with the following initial certification and recertification procedures for a continuous<sup>x</sup> monitoring system (that

is, a continuous emission monitoring system and an excepted monitoring system under 40 CFR 75, Appendix D\* and 40 CFR 75, Appendix E\*) under subsection (b)(1). The owner or operator of a unit that qualifies to use the low mass emissions excepted monitoring methodology under 40 CFR 75.19\* or that qualifies to use an alternative monitoring system under 40 CFR 75, Subpart E\* shall comply with the procedures in subsection (i) or (j) respectively:

(1) The owner or operator shall ensure that each continuous monitoring system under subsection (b)(1), including the automated data acquisition and handling system, successfully completes all of the initial certification testing required under 40 CFR 75.20\* by the applicable deadline in subsection (c). In addition, whenever the owner or operator installs a monitoring system to meet the requirements of this section in a location where no such monitoring system was previously installed, initial certification in accordance with 40 CFR 75.20\* is required.

(2) Whenever the owner or operator makes a replacement, modification, or change in any certified continuous emission monitoring system under subsection (b)(1) that may significantly affect the ability of the system to accurately measure or record NO<sub>x</sub> mass emissions or heat input rate or to meet the quality-assurance and quality-control requirements of 40 CFR 75.21\* or 40 CFR 75, Appendix B\*, the owner or operator shall recertify the monitoring system in accordance with 40 CFR 75.20(b)\*. Furthermore, whenever the owner or operator makes a replacement, modification, or change to the flue gas handling system or the unit's operation that may significantly change the stack flow or concentration profile, the owner or operator shall recertify each continuous emission monitoring system whose accuracy is potentially affected by the change, in accordance with 40 CFR 75.20(b)\*. Examples of changes to a continuous emission monitoring system that require recertification include replacement of the analyzer, complete replacement of an existing continuous emission monitoring system, or change in location or orientation of the sampling probe or site. Any fuel flowmeter system, and any excepted NO<sub>x</sub> monitoring system under 40 CFR 75, Appendix E\*, under subsection (b)(1) are subject to the recertification requirements in 40 CFR 75.20(g)(6)\*.

(3) Clauses (A) through (D) apply to both initial certification and recertification of a continuous monitoring system under subsection (b)(1). For recertifications, replace the words "certification" and "initial certification" with the word "recertification," replace the word "certified" with the word "recertified," and follow the procedures in 40 CFR 75.20(b)(5)\* and 40 CFR 75.20(g)(7)\* in lieu of the procedures in clause (E) of this subdivision. Requirements for the certification approval process for initial certification and recertification, and loss of certification are as follows:

(A) The CAIR designated representative shall submit to the department, the U.S. EPA Region V, and the U.S. EPA written notice of the dates of certification testing, in accordance with subsection (m).

(B) The CAIR designated representative shall submit to the department a certification application for each monitoring system. A complete certification application shall include the information specified in 40 CFR 75.63\*.

(C) The provisional certification date for a monitoring system shall be determined in accordance with 40 CFR 75.20(a)(3)\*. A provisionally certified monitoring system may be used under the CAIR NO<sub>x</sub> annual trading program for a period not to exceed one hundred twenty (120) days after receipt by the department of the complete certification application for the monitoring system under clause (B). Data measured and recorded by the provisionally certified monitoring system, in accordance with the requirements of 40 CFR 75\*, shall be considered valid quality-assured data, retroactive to the date and time of provisional certification, provided that the department does not invalidate the provisional certification by issuing a notice of disapproval within one hundred twenty (120) days of the date of receipt of the complete certification application by the department.

(D) The department shall issue a written notice of approval or disapproval of the certification application to the owner or operator within one hundred twenty (120) days of receipt of the complete certification application under clause (B). In the event the department does not issue such a notice within such one hundred twenty (120) day period, each monitoring system that meets the applicable performance requirements of 40 CFR 75\* and is included in the certification application shall be deemed certified for use under the CAIR NO<sub>x</sub> annual trading program. The issuance of notices shall be as follows:

(i) If the certification application is complete and shows that each monitoring system meets the applicable performance requirements of 40 CFR 75\*, then the department shall issue a written notice of approval of the certification application within one hundred twenty (120) days of receipt.

(ii) If the certification application is not complete, then the department shall issue a written notice of incompleteness that sets a reasonable date by which the CAIR designated representative must submit the additional information required to complete the certification application. If the CAIR designated representative does not comply with the notice of incompleteness by the specified date, then the department may issue a notice of disapproval under item (iii). The one hundred



twenty (120) day review period shall not begin before receipt of a complete certification application.

(iii) If the certification application shows that any monitoring system does not meet the performance requirements of 40 CFR 75\* or if the certification application is incomplete and the requirement for disapproval under item (ii) is met, then the department shall issue a written notice of disapproval of the certification application. Upon issuance of such notice of disapproval, the provisional certification is invalidated by the department and the data measured and recorded by each uncertified monitoring system shall not be considered valid quality-assured data beginning with the date and hour of provisional certification, as defined under 40 CFR 75.20(a)(3)\*. The owner or operator shall follow the procedures for loss of certification in clause (E) for each monitoring system that is disapproved for initial certification.

(iv) The department or, for a CAIR NO<sub>x</sub> opt-in unit or a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under section 12 of this rule, the U.S. EPA may issue a notice of disapproval of the certification status of a monitor in accordance with subsection (I).

(E) If the department or the U.S. EPA issues a notice of disapproval of a certification application under clause (D)(iii) or a notice of disapproval of certification status under clause (D)(iv), then the following shall apply:

(i) The owner or operator shall substitute the following values, for each disapproved monitoring system, for each hour of unit operation during the period of invalid data specified under 40 CFR 75.20(a)(4)(iii)\*, 40 CFR 75.20(g)(7)\*, or 40 CFR 75.21(e)\* and continuing until the applicable date and hour specified under 40 CFR 75.20(a)(5)(I)\* or 40 CFR 75.20(g)(7)\*:

(AA) For a disapproved NO<sub>x</sub> emission rate, NO<sub>x</sub>-diluent, system, the maximum potential NO<sub>x</sub> emission rate, as defined in 40 CFR 72.2\*.

(BB) For a disapproved NO<sub>x</sub> pollutant concentration monitor and disapproved flow monitor, respectively, the maximum potential concentration of NO<sub>x</sub> and the maximum potential flow rate, as defined in 40 CFR 75, Appendix A, Sections 2.1.2.1 and 2.1.4.1\*.

(CC) For a disapproved moisture monitoring system and disapproved diluent gas monitoring system, respectively, the minimum potential moisture percentage and either the maximum potential CO<sub>2</sub> concentration or the minimum potential O<sub>2</sub> concentration, as applicable, as defined in 40 CFR 75, Appendix A, Sections 2.1.5, 2.1.3.1, and 2.1.3.2\*.

(DD) For a disapproved fuel flowmeter system, the maximum potential fuel flow rate, as defined in 40 CFR 75, Appendix D, Section 2.4.2.1\*.

(EE) For a disapproved excepted NO<sub>x</sub> monitoring system under 40 CFR 75, Appendix E\*, the fuel-specific maximum potential NO<sub>x</sub> emission rate, as defined in 40 CFR 72.2\*.

(ii) The CAIR designated representative shall submit a notification of certification retest dates and a new certification application in accordance with clauses (A) and (B).

(iii) The owner or operator shall repeat all certification tests or other requirements that were failed by the monitoring system, as indicated in the department's or the U.S. EPA's notice of disapproval, not later than thirty (30) unit operating days after the date of issuance of the notice of disapproval.

(i) The owner or operator of a unit qualified to use the low mass emissions (LME) excepted methodology under 40 CFR 75.19\* shall meet the applicable certification and recertification requirements in 40 CFR 75.19(a)(2)\* and 40 CFR 75.20(h)\*. If the owner or operator of such a unit elects to certify a fuel flowmeter system for heat input determination, the owner or operator shall also meet the certification and recertification requirements in 40 CFR 75.20(g)\*.

(j) The CAIR designated representative of each unit for which the owner or operator intends to use an alternative monitoring system approved by the U.S. EPA and, if applicable, the department under 40 CFR 75, Subpart E\* shall comply with the applicable notification and application procedures of 40 CFR 75.20(f)\*.

(k) Whenever any monitoring system fails to meet the quality-assurance and quality-control requirements or data validation requirements of 40 CFR 75\*, data shall be substituted using the applicable missing data procedures in 40 CFR, Subpart D\*, 40 CFR 75, Subpart H\*, 40 CFR 75, Appendix D\*, or 40 CFR 75, Appendix E\*.

(l) Whenever both an audit of a monitoring system and a review of the initial certification or recertification application reveal that any monitoring system should not have been certified or recertified because it did not meet a particular performance specification or other requirement under subsections (f)

through (j) or the applicable provisions of 40 CFR 75\*, both at the time of the initial certification or recertification application submission and at the time of the audit, the department or, for a CAIR NO<sub>x</sub> opt-in unit or a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under section 12 of this rule, the U.S. EPA will issue a notice of disapproval of the certification status of such monitoring system. For the purposes of this subsection, an audit shall be either a field audit or an audit of any information submitted to the department or the U.S. EPA. By issuing the notice of disapproval, the department or the U.S. EPA revokes prospectively the certification status of the monitoring system. The data measured and recorded by the monitoring system shall not be considered valid quality-assured data from the date of issuance of the notification of the revoked certification status until the date and time that the owner or operator completes subsequently approved initial certification or recertification tests for the monitoring system. The owner or operator shall follow the applicable initial certification or recertification procedures in subsections (f) through (j) for each disapproved monitoring system.

(m) The CAIR designated representative for a CAIR NO<sub>x</sub> unit shall submit written notice to the department and the U.S. EPA in accordance with 40 CFR 75.61\*.

(n) The CAIR designated representative shall comply with all record keeping and reporting requirements in this subsection, the applicable record keeping and reporting requirements under 40 CFR 75.73\*, and the requirements of section 6(e)(1) of this rule as follows:

- (1) The owner or operator of a CAIR NO<sub>x</sub> unit shall comply with requirements of 40 CFR 75.73(c)\* and 40 CFR 75.73(e)\* and, for a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under section 12 of this rule.
- (2) The CAIR designated representative shall submit an application to the department within forty-five (45) days after completing all initial certification or recertification tests required under subsections (f) through (j), including the information required under 40 CFR 75.63\*.
- (3) The CAIR designated representative shall submit quarterly reports as follows:
  - (A) The CAIR designated representative shall report the NO<sub>x</sub> mass emissions data and heat input data for the CAIR NO<sub>x</sub> unit, in an electronic quarterly report in a format prescribed by the U.S. EPA, for each calendar quarter beginning with:
    - (i) for a unit that commences commercial operation before July 1, 2007, the calendar quarter covering January 1, 2008 through March 31, 2008;
    - (ii) for a unit that commences commercial operation on or after July 1, 2007, the calendar quarter corresponding to the earlier of the date of provisional certification or the applicable deadline for initial certification under subsection (c), unless that quarter is the third or fourth quarter of 2007, in which case reporting shall commence in the quarter covering January 1, 2008, through March 31, 2008;
    - (iii) notwithstanding items (i) and (ii), for a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under section 12 of this rule, the calendar quarter corresponding to the date specified in section 12(f)(2), 12(f)(3), and 12(f)(4) of this rule; and
    - (iv) notwithstanding items (i) and (ii), for a CAIR NO<sub>x</sub> opt-in unit under section 12 of this rule, the calendar quarter corresponding to the date on which the CAIR NO<sub>x</sub> opt-in unit enters the CAIR NO<sub>x</sub> annual trading program as provided in section 12(f)(9) of this rule.
  - (B) The CAIR designated representative shall submit each quarterly report to the U.S. EPA within thirty (30) days following the end of the calendar quarter covered by the report. Quarterly reports shall be submitted in the manner specified in 40 CFR 75.73(f)\*.
  - (C) For CAIR NO<sub>x</sub> units that are also subject to an acid rain emissions limitation or the CAIR NO<sub>x</sub> ozone season trading program, CAIR SO<sub>2</sub> trading program, or mercury budget trading program, quarterly reports shall include the applicable data and information required by 40 CFR 75, Subparts F through I\* as applicable, in addition to the NO<sub>x</sub> mass emission data, heat input data, and other information required by this section.
- (4) The CAIR designated representative shall submit to the U.S. EPA a compliance certification, in a format prescribed by the U.S. EPA in support of each quarterly report based on reasonable inquiry of those persons with primary responsibility for ensuring that all of the unit's emissions are correctly and fully monitored. The certification shall state that:
  - (A) the monitoring data submitted were recorded in accordance with the applicable requirements of this section and 40 CFR 75\*, including the quality assurance procedures and specifications; and
  - (B) for a unit with add-on NO<sub>x</sub> emission controls and for all hours where NO<sub>x</sub> data are substituted in accordance with 40 CFR 75.34(a)(1)\*, the add-on emission controls were operating within the range

of parameters listed in the quality assurance/quality control program under 40 CFR 75, Appendix B\* and the substitute data values do not systematically underestimate NO<sub>x</sub> emissions.

(o) A petition requesting approval of alternatives to any requirement of this section may be made as follows:

(1) Except as provided in subdivision (3), the CAIR designated representative of a CAIR NO<sub>x</sub> unit that is subject to an acid rain emissions limitation may submit a petition under 40 CFR 75.66\* to the U.S. EPA requesting approval to apply an alternative to any requirement of this section. Application of an alternative to any requirement of this section is in accordance with this section only to the extent that the petition is approved in writing by the U.S. EPA, in consultation with the department.

(2) The CAIR designated representative of a CAIR NO<sub>x</sub> unit that is not subject to an acid rain emissions limitation may submit a petition under 40 CFR 75.66\* to the department and the U.S. EPA requesting approval to apply an alternative to any requirement of this section. Application of an alternative to any requirement of this section is in accordance with this section only to the extent that the petition is approved in writing by both the department and the U.S. EPA.

(3) The CAIR designated representative of a CAIR NO<sub>x</sub> unit that is subject to an acid rain emissions limitation may submit a petition under 40 CFR 75.66\* to the department and the U.S. EPA requesting approval to apply an alternative to a requirement concerning any additional continuous emission monitoring system required under 40 CFR 75.72\*. Application of an alternative to any such requirement is in accordance with this section only to the extent that the petition is approved in writing by both the department and the U.S. EPA.

(p) The owner or operator of a CAIR NO<sub>x</sub> unit is subject to the applicable provisions of 40 CFR 75\* concerning units in long term cold storage.

\*These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.

(Air Pollution Control Board; [326 IAC 24-1-11](#))

### **[326 IAC 24-1-12](#) CAIR NO<sub>x</sub> opt-in units**

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 12. (a) A CAIR NO<sub>x</sub> opt-in unit is a unit that meets all of the following requirements:

- (1) Is located in Indiana.
- (2) Is not a CAIR NO<sub>x</sub> unit under section 1 of this rule and is not covered by a retired unit exemption that is in effect under section 3 of this rule.
- (3) Is not covered by a retired unit exemption that is in effect under 40 CFR 72.8\*.
- (4) Has or is required or qualified to have a Part 70 operating permit or other federally enforceable permit.
- (5) Vents all of its emissions to a stack and can meet the monitoring, record keeping, and reporting requirements of section 11 of this rule.

(b) Except as otherwise provided in sections 1, 2, 4 through 7, and 9 through 11 of this rule, a CAIR NO<sub>x</sub> opt-in unit shall be treated as a CAIR NO<sub>x</sub> unit for purposes of applying such sections of this rule.

(c) Solely for purposes of applying, as provided in this section, the requirements of section 11 of this rule to a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under this section, such unit shall be treated as a CAIR NO<sub>x</sub> unit before issuance of a CAIR opt-in permit for such unit.

(d) Any CAIR NO<sub>x</sub> opt-in unit, and any unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under this section, located at the same

source as one (1) or more CAIR NO<sub>x</sub> units shall have the same CAIR designated representative and alternate CAIR designated representative as such CAIR NO<sub>x</sub> units.

(e) The CAIR designated representative of a unit meeting the requirements for a CAIR NO<sub>x</sub> opt-in unit in subsection (a) may apply for an initial CAIR opt-in permit at any time, except as provided under subsection (h)(8) and (h)(9), and, in order to apply, must submit the following:

- (1) A complete CAIR permit application under section 7(c) of this rule.
- (2) A certification, in a format specified by the department, that the unit:
  - (A) is not a CAIR NO<sub>x</sub> unit under section 1 of this rule and is not covered by a retired unit exemption that is in effect under section 3 of this rule;
  - (B) is not covered by a retired unit exemption that is in effect under 40 CFR 72.8\*;
  - (C) vents all of its NO<sub>x</sub> emissions to a stack; and
  - (D) has documented heat input for more than eight hundred seventy-six (876) hours during the six (6) months immediately preceding submission of the CAIR permit application under section 7(c) of this rule.
- (3) A monitoring plan in accordance with section 11 of this rule.
- (4) A complete certificate of representation under section 6(h) of this rule consistent with subsection (d), if no CAIR designated representative has been previously designated for the source that includes the unit.
- (5) A statement, in a format specified by the department, whether the CAIR designated representative requests that the unit be allocated CAIR NO<sub>x</sub> allowances under subsection (j)(3) or (j)(4), subject to the conditions in subsections (f)(10) and (h)(8). If allocation under subsection (j)(4) is requested, this statement shall include a statement that the owners and operators of the unit intend to repower the unit before January 1, 2015, and that they will provide, upon request, documentation demonstrating such intent.

The CAIR designated representative of a CAIR NO<sub>x</sub> opt-in unit shall submit a complete CAIR permit application under section 7(c) of this rule to renew the CAIR opt-in unit permit in accordance with [327 IAC 2-7](#) or [327 IAC 2-8](#), if applicable, addressing permit renewal. Unless the department issues a notification of acceptance of withdrawal of the CAIR opt-in unit from the CAIR NO<sub>x</sub> annual trading program in accordance with subsection (h) or the unit becomes a CAIR NO<sub>x</sub> unit under section 1 of this rule, the CAIR NO<sub>x</sub> opt-in unit shall remain subject to the requirements for a CAIR NO<sub>x</sub> opt-in unit, even if the CAIR designated representative for the CAIR NO<sub>x</sub> opt-in unit fails to submit a CAIR permit application that is required for renewal of the CAIR NO<sub>x</sub> opt-in permit.

(f) The department shall issue or deny a CAIR opt-in permit for a unit for which an initial application for a CAIR opt-in permit under subsection (e) is submitted in accordance with the following:

- (1) The department and the U.S. EPA will determine, on an interim basis, the sufficiency of the monitoring plan accompanying the initial application for a CAIR opt-in permit under subsection (e). A monitoring plan is sufficient, for purposes of interim review, if the plan appears to contain information demonstrating that the NO<sub>x</sub> emissions rate and heat input of the unit and all other applicable parameters are monitored and reported in accordance with section 11 of this rule. A determination of sufficiency shall not be construed as acceptance or approval of the monitoring plan.
- (2) If the department and the U.S. EPA determine that the monitoring plan is sufficient under subdivision (1), the owner or operator shall monitor and report the NO<sub>x</sub> emissions rate and the heat input of the unit and all other applicable parameters, in accordance with section 11 of this rule, starting on the date of certification of the appropriate monitoring systems under section 11 of this rule and continuing until a CAIR opt-in permit is denied under subdivision (8) or, if a CAIR opt-in permit is issued, the date and time when the unit is withdrawn from the CAIR NO<sub>x</sub> annual trading program in accordance with subsection (h).
- (3) The monitoring and reporting under subdivision (2) shall include the entire control period immediately before the date on which the unit enters the CAIR NO<sub>x</sub> annual trading program under subdivision (9), during which period monitoring system availability must not be less than ninety percent (90%) under section 11 of this rule and the unit must be in full compliance with any applicable state or federal emissions or emissions-related requirements.
- (4) To the extent the NO<sub>x</sub> emissions rate and the heat input of the unit are monitored and reported in accordance with section 11 of this rule for one (1) or more control periods, in addition to the control period under subdivision (3), during which control periods monitoring system availability is not less than ninety percent (90%) under section 11 of this rule and the unit is in full compliance with any applicable state or federal emissions or emissions-related requirements and which control periods begin not more than three (3) years before the unit enters the CAIR NO<sub>x</sub> annual trading program under

subdivision (9), such information shall be used as provided in subdivisions (5) and (6).

(5) The unit's baseline heat rate shall equal one (1) of the following:

(A) If the unit's NO<sub>x</sub> emissions rate and heat input are monitored and reported for only one control period, in accordance with subdivisions (2) and (3), the unit's total heat input, in million British thermal units (MMBtu), for the control period.

(B) If the unit's NO<sub>x</sub> emissions rate and heat input are monitored and reported for more than one control period, in accordance with subdivisions (2) through (4), the average of the amounts of the unit's total heat input, in million British thermal units (MMBtu), for the control periods under subdivisions (3) and (4).

(6) The unit's baseline NO<sub>x</sub> emission rate shall equal one (1) of the following:

(A) If the unit's NO<sub>x</sub> emissions rate and heat input are monitored and reported for only one control period, in accordance with subdivisions (2) and (3), the unit's NO<sub>x</sub> emissions rate, in pounds per million British thermal units (lb/MMBtu), for the control period.

(B) If the unit's NO<sub>x</sub> emissions rate and heat input are monitored and reported for more than one control period, in accordance with subdivisions (2) through (4), and the unit does not have add-on NO<sub>x</sub> emission controls during any such control periods, the average of the amounts of the unit's NO<sub>x</sub> emissions rate in pounds per million British thermal units (lb/MMBtu), for the control periods under subdivisions (3) and (4).

(C) If the unit's NO<sub>x</sub> emissions rate and heat input are monitored and reported for more than one control period, in accordance with subdivisions (2) through (4), and the unit has add-on NO<sub>x</sub> emission controls during any such control periods, the average of the amounts of the unit's NO<sub>x</sub> emissions rate in pounds per million British thermal units (lb/MMBtu), for such control periods during which the unit has add-on NO<sub>x</sub> emission controls.

(7) After calculating the baseline heat input and the baseline NO<sub>x</sub> emissions rate for the unit under subdivisions (5) and (6) and if the department determines that the CAIR designated representative shows that the unit meets the requirements for a CAIR NO<sub>x</sub> opt-in unit in subsection (a) and meets the elements certified in subsection (e)(2), the department shall issue a CAIR opt-in permit. The department shall provide a copy of the CAIR opt-in permit to the U.S. EPA, who will then establish a compliance account for the source that includes the CAIR NO<sub>x</sub> opt-in unit unless the source already has a compliance account.

(8) Notwithstanding subdivisions (1) through (7), if at any time before issuance of a CAIR opt-in permit for the unit, the department determines that the CAIR designated representative fails to show that the unit meets the requirements for a CAIR NO<sub>x</sub> opt-in unit in subsection (a) or meets the elements certified in subsection (e)(2), the department shall issue a denial of a CAIR opt-in permit for the unit.

(9) A unit for which an initial CAIR opt-in permit is issued by the department shall become a CAIR NO<sub>x</sub> opt-in unit, and a CAIR NO<sub>x</sub> unit, as of the later of January 1, 2009, or January 1 of the first control period during which such CAIR opt-in permit is issued.

(10) If a CAIR designated representative requests, and the department issues, a CAIR opt-in permit providing for, allocation to a CAIR NO<sub>x</sub> opt-in unit of CAIR NO<sub>x</sub> allowances under subsection (j)(4) and such unit is repowered after its date of entry into the CAIR NO<sub>x</sub> annual trading program under subdivision (9), the repowered unit shall be treated as a CAIR NO<sub>x</sub> opt-in unit replacing the original CAIR NO<sub>x</sub> opt-in unit, as of the date of start-up of the repowered unit's combustion chamber. Notwithstanding subdivisions (5) and (6), as of the date of start-up, the repowered unit shall be deemed to have the same date of commencement of operation, date of commencement of commercial operation, baseline heat input, and baseline NO<sub>x</sub> emission rate as the original CAIR NO<sub>x</sub> opt-in unit, and the original CAIR NO<sub>x</sub> opt-in unit shall no longer be treated as a CAIR NO<sub>x</sub> opt-in unit or a CAIR NO<sub>x</sub> unit.

(g) The following shall apply to the content of each CAIR opt-in permit:

(1) Each opt-in permit shall contain:

(A) All elements required for a complete CAIR permit application under section 7(c) of this rule.

(B) The certification in subsection (e)(2).

(C) The unit's baseline heat input under subsection (f)(5).

(D) The unit's baseline NO<sub>x</sub> emission rate under subsection (f)(6).

(E) A statement whether the unit is to be allocated CAIR NO<sub>x</sub> allowances under subsection (j)(3) or (j)(4), subject to the conditions in subsections (f)(10) and (h).

(F) A statement that the unit may withdraw from the CAIR NO<sub>x</sub> annual trading program only in accordance with subsection (h).

(G) A statement that the unit is subject to, and the owners and operators of the unit must comply with, the requirements of subsection (i).



- (2) Each CAIR opt-in permit is deemed to incorporate automatically the definitions under section 2 of this rule and, upon recordation by the U.S. EPA under this section and sections 9 and 10 of this rule, every allocation, transfer, or deduction of CAIR NO<sub>x</sub> allowances to or from the compliance account of the source that includes a CAIR NO<sub>x</sub> opt-in unit covered by the CAIR opt-in permit.
- (3) The CAIR opt-in permit shall be included, in a format prescribed by the department, in the CAIR permit for the source where the CAIR opt-in unit is located and in a Part 70 operating permit or FESOP.

(h) The following requirements must be satisfied in order to withdraw an opt-in unit from the CAIR NO<sub>x</sub> annual trading program:

- (1) Except as provided under subdivision (8), a CAIR NO<sub>x</sub> opt-in unit may withdraw from the CAIR NO<sub>x</sub> annual trading program, but only if the department issues a notification to the CAIR designated representative of the CAIR NO<sub>x</sub> opt-in unit of the acceptance of the withdrawal of the CAIR NO<sub>x</sub> opt-in unit in accordance with subdivision (6).
- (2) In order to withdraw a CAIR NO<sub>x</sub> opt-in unit from the CAIR NO<sub>x</sub> annual trading program, the CAIR designated representative of the CAIR NO<sub>x</sub> opt-in unit shall submit to the department a request to withdraw effective as of midnight of December 31 of a specified calendar year, which date must be at least four (4) years after December 31 of the year of entry into the CAIR NO<sub>x</sub> annual trading program under subsection (f)(9). The request must be submitted not later than ninety (90) days before the requested effective date of withdrawal.
- (3) Before a CAIR NO<sub>x</sub> opt-in unit covered by a request under subdivision (1) may withdraw from the CAIR NO<sub>x</sub> annual trading program and the CAIR opt-in permit may be terminated under subdivision (7), the following conditions must be met:
- (A) For the control period ending on the date on which the withdrawal is to be effective, the source that includes the CAIR NO<sub>x</sub> opt-in unit must meet the requirement to hold CAIR NO<sub>x</sub> allowances under section 4(c) of this rule and cannot have any excess emissions.
- (B) After the requirement for withdrawal under clause (A) is met, the U.S. EPA will deduct from the compliance account of the source that includes the CAIR NO<sub>x</sub> opt-in unit CAIR NO<sub>x</sub> allowances equal in amount to, and allocated for, the same or a prior control period as any CAIR NO<sub>x</sub> allowances allocated to the CAIR NO<sub>x</sub> opt-in unit under subsection (j) for any control period for which the withdrawal is to be effective. If there are no remaining CAIR NO<sub>x</sub> units at the source, the U.S. EPA will close the compliance account, and the owners and operators of the CAIR NO<sub>x</sub> opt-in unit may submit a CAIR NO<sub>x</sub> allowance transfer for any remaining CAIR NO<sub>x</sub> allowances to another CAIR NO<sub>x</sub> allowance tracking system in accordance with section 10 of this rule.
- (4) After the requirements for withdrawal under subdivisions (2) and (3) are met, including deduction of the full amount of CAIR NO<sub>x</sub> allowances required, the department shall issue a notification to the CAIR designated representative of the CAIR NO<sub>x</sub> opt-in unit of the acceptance of the withdrawal of the CAIR NO<sub>x</sub> opt-in unit as of midnight on December 31 of the calendar year for which the withdrawal was requested.
- (5) If the requirements for withdrawal under subdivisions (2) and (3) are not met, the department shall issue a notification to the CAIR designated representative of the CAIR NO<sub>x</sub> opt-in unit that the CAIR NO<sub>x</sub> opt-in unit's request to withdraw is denied. Such CAIR NO<sub>x</sub> opt-in unit shall continue to be a CAIR NO<sub>x</sub> opt-in unit.
- (6) After the department issues a notification under subdivision (4) that the requirements for withdrawal have been met, the department shall revise the CAIR permit covering the CAIR NO<sub>x</sub> opt-in unit to terminate the CAIR opt-in permit for such unit as of the effective date specified under subdivision (4). The unit shall continue to be a CAIR NO<sub>x</sub> opt-in unit until the effective date of the termination and shall comply with all requirements under the CAIR NO<sub>x</sub> annual trading program concerning any control periods for which the unit is a CAIR NO<sub>x</sub> opt-in unit, even if such requirements arise or must be complied with after the withdrawal takes effect.
- (7) If the department denies the CAIR NO<sub>x</sub> opt-in unit's request to withdraw, the CAIR designated representative may submit another request to withdraw in accordance with subdivisions (2) and (3).
- (8) Notwithstanding subdivisions (1) through (7), a CAIR NO<sub>x</sub> opt-in unit shall not be eligible to withdraw from the CAIR NO<sub>x</sub> annual trading program if the CAIR designated representative of the CAIR NO<sub>x</sub> opt-in unit requests, and the department issues, a CAIR NO<sub>x</sub> opt-in permit providing for, allocation to the CAIR NO<sub>x</sub> opt-in unit of CAIR NO<sub>x</sub> allowances under subsection (j)(4).
- (9) Once a CAIR NO<sub>x</sub> opt-in unit withdraws from the CAIR NO<sub>x</sub> annual trading program and its CAIR opt-in permit is terminated under this section, the CAIR designated representative may not submit another application for a CAIR opt-in permit under subsection (e) for such CAIR NO<sub>x</sub> opt-in unit before the date that is four (4) years after the date on which the withdrawal became effective. Such new application for a CAIR opt-in permit shall be treated as an initial application for a CAIR opt-in permit

under subsection (f).

(i) When a CAIR NO<sub>x</sub> opt-in unit becomes a CAIR NO<sub>x</sub> unit under section 1 of this rule, then the CAIR designated representative shall notify, in writing, the department and the U.S. EPA of such change in the CAIR NO<sub>x</sub> opt-in unit's regulatory status, within thirty (30) days of such change. If there is a change in the regulatory status, the department and the U.S. EPA will take the following actions concerning the CAIR NO<sub>x</sub> opt-in source:

(1) When the CAIR NO<sub>x</sub> opt-in unit becomes a CAIR NO<sub>x</sub> unit under section 1 of this rule, the department shall revise the CAIR NO<sub>x</sub> opt-in unit's CAIR NO<sub>x</sub> opt-in permit to meet the requirements of a CAIR permit under section 7(d) and (7)(e) of this rule, and remove the CAIR opt-in permit provisions, as of the date on which the CAIR NO<sub>x</sub> opt-in unit becomes a CAIR NO<sub>x</sub> unit under section 1 of this rule.

(2) The U.S. EPA will deduct from the compliance account of the source that includes the CAIR NO<sub>x</sub> opt-in unit that becomes a CAIR NO<sub>x</sub> unit under section 1 of this rule, CAIR NO<sub>x</sub> allowances equal in amount to and allocated for the same or a prior control period as follows:

(A) Any CAIR NO<sub>x</sub> allowances allocated to the CAIR NO<sub>x</sub> opt-in unit under subsection (j) for any control period after the date on which the CAIR NO<sub>x</sub> opt-in unit becomes a CAIR NO<sub>x</sub> unit under section 1 of this rule.

(B) If the date on which the CAIR NO<sub>x</sub> opt-in unit becomes a CAIR NO<sub>x</sub> unit under section 1 of this rule is not December 31, the CAIR NO<sub>x</sub> allowances allocated to the CAIR NO<sub>x</sub> opt-in unit under subsection (j) for the control period that includes the date on which the CAIR NO<sub>x</sub> opt-in unit becomes a CAIR NO<sub>x</sub> unit under section 1 of this rule, multiplied by the ratio of the number of days, in the control period, starting with the date on which the CAIR NO<sub>x</sub> opt-in unit becomes a CAIR NO<sub>x</sub> unit under section 1 of this rule divided by the total number of days in the control period and rounded to the nearest whole allowance as appropriate.

(3) The CAIR designated representative shall ensure that the compliance account of the source that includes the CAIR NO<sub>x</sub> unit that becomes a CAIR NO<sub>x</sub> unit under section 1 of this rule contains the CAIR NO<sub>x</sub> allowances necessary for completion of the deduction under subdivision (2).

(4) For every control period after the date on which the CAIR NO<sub>x</sub> opt-in unit becomes a CAIR NO<sub>x</sub> unit under section 1 of this rule, the CAIR NO<sub>x</sub> opt-in unit shall be allocated CAIR NO<sub>x</sub> allowance allocations under section 8(c) of this rule.

(5) Notwithstanding subdivision (4), if the date on which the CAIR NO<sub>x</sub> opt-in unit becomes a CAIR NO<sub>x</sub> unit under section 1 of this rule is not January 1, the following amount of CAIR NO<sub>x</sub> allowances shall be allocated to the CAIR NO<sub>x</sub> opt-in unit, as a CAIR NO<sub>x</sub> unit, under section 8(c) of this rule for the control period that includes the date on which the CAIR NO<sub>x</sub> opt-in unit becomes a CAIR NO<sub>x</sub> unit under section 1 of this rule:

(A) the amount of CAIR NO<sub>x</sub> allowances otherwise allocated to the CAIR NO<sub>x</sub> opt-in unit, as a CAIR NO<sub>x</sub> unit, under section 8(c) of this rule for the control period;

(B) multiplied by the ratio of the number of days, in the control period, starting with the date on which the CAIR NO<sub>x</sub> opt-in unit becomes a CAIR NO<sub>x</sub> unit under section 1 of this rule, divided by the total number of days in the control period; and

(C) rounded to the nearest whole allowance, as appropriate.

(j) The department shall allocate CAIR NO<sub>x</sub> allowances to CAIR NO<sub>x</sub> opt-in sources as follows:

(1) When the CAIR opt-in permit is issued under subsection (f)(7), the department shall allocate CAIR NO<sub>x</sub> allowances to the CAIR NO<sub>x</sub> opt-in unit, and submit to the U.S. EPA the allocation for the control period in which a CAIR NO<sub>x</sub> opt-in unit enters the CAIR NO<sub>x</sub> annual trading program under subsection (f)(9), in accordance with subdivision (3) or (4).

(2) By not later than October 31 of the control period in which a CAIR NO<sub>x</sub> opt-in unit enters the CAIR NO<sub>x</sub> annual trading program under subsection (f)(9) and October 31 of each year thereafter, the department shall allocate CAIR NO<sub>x</sub> allowances to the CAIR NO<sub>x</sub> opt-in unit, and submit to the U.S. EPA the allocation for the control period that includes such submission deadline and in which the unit is a CAIR NO<sub>x</sub> opt-in unit, in accordance with subdivision (3) or (4).

(3) For each control period for which a CAIR NO<sub>x</sub> opt-in unit is to be allocated CAIR NO<sub>x</sub> allowances, the department shall allocate in accordance with the following procedures:

(A) The heat input, in million British thermal units (MMBtu), used for calculating the CAIR NO<sub>x</sub> allowance allocation shall be the lesser of the following:

(i) The CAIR NO<sub>x</sub> opt-in unit's baseline heat input determined under subsection (f)(9).

(ii) The CAIR NO<sub>x</sub> opt-in unit's heat input, as determined in accordance with section 11 of this rule, for the immediately prior control period, except when the allocation is being calculated for the control period in which the CAIR NO<sub>x</sub> opt-in unit enters the CAIR NO<sub>x</sub> annual trading program under

subsection (f)(9).

(B) The NO<sub>x</sub> emission rate, in million British thermal units (MMBtu), used for calculating CAIR NO<sub>x</sub> allowance allocations shall be the lesser of the following:

- (i) The CAIR NO<sub>x</sub> opt-in unit's baseline NO<sub>x</sub> emissions rate, in pounds per million British thermal units (lb/MMBtu), determined under subsection (f)(6) and multiplied by seventy percent (70%).
- (ii) The most stringent state or federal NO<sub>x</sub> emissions limitation applicable to the CAIR NO<sub>x</sub> opt-in unit at any time during the control period for which CAIR NO<sub>x</sub> allowances are to be allocated.

(C) The department shall allocate CAIR NO<sub>x</sub> allowances to the CAIR NO<sub>x</sub> opt-in unit in an amount equaling the heat input under clause (A), multiplied by the NO<sub>x</sub> emission rate under clause (B), divided by two thousand (2,000) pounds per ton, and rounded to the nearest whole allowance as appropriate.

(4) Notwithstanding subdivision (3), if the CAIR designated representative requests, and if the department issues a CAIR opt-in permit providing for, allocation to a CAIR NO<sub>x</sub> opt-in unit of CAIR NO<sub>x</sub> allowances under this subdivision, subject to the conditions in subsections (f)(10) and (h), the department shall allocate to the CAIR NO<sub>x</sub> opt-in unit as follows:

(A) For each control period in 2009 through 2014 the CAIR NO<sub>x</sub> opt-in unit is to be allocated CAIR NO<sub>x</sub> allowances as follows:

(i) The heat input, in million British thermal units (MMBtu), used for calculating CAIR NO<sub>x</sub> allowance allocations shall be determined as described in subdivision (3)(A).

(ii) The NO<sub>x</sub> emission rate, in pounds per million British thermal units (lb/MMBtu), used for calculating CAIR NO<sub>x</sub> allowance allocations shall be the lesser of the following:

(AA) The CAIR NO<sub>x</sub> opt-in unit's baseline NO<sub>x</sub> emissions rate, in pounds per million British thermal units (lb/MMBtu), determined under subsection (f)(6).

(BB) The most stringent state or federal NO<sub>x</sub> emissions limitation applicable to the CAIR NO<sub>x</sub> opt-in unit at any time during the control period in which the CAIR NO<sub>x</sub> opt-in unit enters the CAIR NO<sub>x</sub> annual trading program under subsection (f)(9).

(iii) The department shall allocate CAIR NO<sub>x</sub> allowances to the CAIR NO<sub>x</sub> opt-in unit in an amount equal to the heat input under item (i), multiplied by the NO<sub>x</sub> emission rate under item (ii), divided by two thousand (2,000) pounds per ton, and rounded to the nearest whole allowance as appropriate.

(B) For each control period in 2015 and thereafter the CAIR NO<sub>x</sub> opt-in unit is to be allocated CAIR NO<sub>x</sub> allowances as follows:

(i) The heat input, in million British thermal units (MMBtu), used for calculating the CAIR NO<sub>x</sub> allowance allocations shall be determined as described in subdivision (3)(A).

(ii) The NO<sub>x</sub> emission rate, in pounds per million British thermal units (lb/MMBtu), used for calculating the CAIR NO<sub>x</sub> allowance allocation shall be the lesser of the following:

(AA) Fifteen-hundredths (0.15) pounds per million British thermal units (lb/MMBtu).

(BB) The CAIR NO<sub>x</sub> opt-in unit's baseline NO<sub>x</sub> emissions rate, in pounds per million British thermal units (lb/MMBtu), determined under subsection (f)(6).

(CC) The most stringent state or federal NO<sub>x</sub> emissions limitation applicable to the CAIR NO<sub>x</sub> opt-in unit at any time during the control period for which CAIR NO<sub>x</sub> allowances are to be allocated.

(iii) The department shall allocate CAIR NO<sub>x</sub> allowances to the CAIR NO<sub>x</sub> opt-in unit in an amount equaling the heat input item (i), multiplied by the NO<sub>x</sub> emission rate under item (ii), divided by two thousand (2,000) pounds per ton, and rounded to the nearest whole allowance as appropriate.

(5) The U.S. EPA will record, in the compliance account of the source that includes the CAIR NO<sub>x</sub> opt-in unit, the CAIR NO<sub>x</sub> allowances allocated by the department to the CAIR NO<sub>x</sub> opt-in unit under subdivision (1).

(6) By December 1 of the control period in which a CAIR NO<sub>x</sub> opt-in unit enters the CAIR NO<sub>x</sub> annual trading program under subsection (f)(9) and December 1 of each year thereafter, the U.S. EPA will record, in the compliance account of the source that includes the CAIR NO<sub>x</sub> opt-in unit, the CAIR NO<sub>x</sub> allowances allocated by the department to the CAIR NO<sub>x</sub> opt-in unit under subdivision (2).

\*These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.

(Air Pollution Control Board; [326 IAC 24-1-12](#))

## Rule 2. Clean Air Interstate Rule (CAIR) Sulfur Dioxide Trading Program

**326 IAC 24-2-1 Applicability**Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 1. (a) This rule establishes a SO<sub>2</sub> emissions budget and SO<sub>2</sub> trading program. The following units shall be CAIR SO<sub>2</sub> units, and any source that includes one (1) or more such units shall be a CAIR SO<sub>2</sub> source, and shall be subject to the requirements of this rule, except as provided in subsection (b):

(1) Any stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine serving at any time, since the later of November 15, 1990, or the start-up of the unit's combustion chamber, a generator with nameplate capacity of more than twenty-five (25) megawatt electrical producing electricity for sale.

(2) If a stationary boiler or stationary combustion turbine that, under subdivision (1), is not a CAIR SO<sub>2</sub> unit begins to combust fossil fuel or to serve a generator with nameplate capacity of more than twenty-five (25) megawatt electrical producing electricity for sale, the unit shall become a CAIR SO<sub>2</sub> unit as provided in subdivision (1) on the first date on which it both combusts fossil fuel and serves such generator.

(b) Units that meet the requirements set forth in subdivision (1), (2), or (3) shall not be CAIR SO<sub>2</sub> units as follows:

(1) Any unit that is a CAIR SO<sub>2</sub> unit under subsection (a):

(A) qualifying as a cogeneration unit during the twelve (12) month period starting on the date the unit first produces electricity and continuing to qualify as a cogeneration unit; and

(B) not serving at any time, since the later of November 15, 1990, or the start-up of the unit's combustion chamber, a generator with nameplate capacity of more than twenty-five (25) megawatt electrical supplying in any calendar year more than one-third (1/3) of the unit's potential electric output capacity or two hundred nineteen thousand (219,000) megawatt hours, whichever is greater, to any utility power distribution system for sale.

If a unit qualifies as a cogeneration unit during the twelve (12) month period starting on the date the unit first produces electricity and meets the requirements of this subdivision for at least one (1) calendar year, but subsequently no longer meets all such requirements, the unit shall become a CAIR SO<sub>2</sub> unit starting on the earlier of January 1 after the first calendar year during which the unit no longer qualifies as a cogeneration unit or January 1 after the first calendar year during which the unit no longer meets the requirements of clause (B).

(2) Any unit that is a CAIR SO<sub>2</sub> unit under subsection (a) commencing operation before January 1, 1985:

(A) qualifying as a solid waste incineration unit; and

(B) with an average annual fuel consumption of nonfossil fuel for 1985-1987 exceeding eighty percent (80%), on a British thermal units basis, and an average annual fuel consumption of nonfossil fuel for any three (3) consecutive calendar years after 1990 exceeding eighty percent (80%), on a British thermal units basis.

(3) Any unit that is a CAIR SO<sub>2</sub> unit under subsection (a) commencing operation on or after January 1, 1985:

(A) qualifying as a solid waste incineration unit; and

(B) with an average annual fuel consumption of nonfossil fuel for the first three (3) calendar years of operation exceeding eighty percent (80%), on a British thermal units basis, and an average annual fuel consumption of nonfossil fuel for any three (3) consecutive calendar years after 1990 exceeding eighty percent (80%), on a British thermal units basis.

(4) If the unit qualifies as a solid waste incineration unit and meets the requirements of subdivision (2) or (3) for at least three (3) consecutive calendar years, but subsequently no longer meets all such requirements, the unit shall become a CAIR SO<sub>2</sub> unit starting on the earlier of January 1 after the first calendar year during which the unit first no longer qualifies as a solid waste incineration unit or January 1 after the first three (3) consecutive calendar years after 1990 for which the unit has an average annual fuel consumption of fossil fuel of twenty percent (20%) or more.

(Air Pollution Control Board; [326 IAC 24-2-1](#))

**326 IAC 24-2-2 Definitions**

Sec. 2. For purposes of this rule, the definition given for a term in this rule shall control in any conflict between [326 IAC 1-2](#) and this rule. In addition to the definitions provided in [IC 13-11-2](#) and [326 IAC 1-2](#), the following definitions apply throughout this rule, unless expressly stated otherwise or unless the context clearly implies otherwise:

- (1) "Account number" means the identification number given by the U.S. EPA to each CAIR SO<sub>2</sub> allowance tracking system account.
- (2) "Acid rain emissions limitation" means a limitation on emissions of sulfur dioxide or nitrogen oxides under the acid rain program.
- (3) "Acid rain program" means a multistate sulfur dioxide and nitrogen oxides air pollution control and emission reduction program established by the U.S. EPA under Title IV of the Clean Air Act and 40 CFR 72 through 78\*.
- (4) "Allocate" or "allocation" means, with regard to CAIR SO<sub>2</sub> allowances issued under the acid rain program, the determination by the U.S. EPA of the amount of such CAIR SO<sub>2</sub> allowances to be initially credited to a CAIR SO<sub>2</sub> unit or other entity and, with regard to CAIR SO<sub>2</sub> allowances issued under section 11(j) of this rule, the determination by the department of the amount of SO<sub>2</sub> allowances to be initially credited to a CAIR SO<sub>2</sub> unit or other entity.
- (5) "Allowance transfer deadline" means, for a control period, midnight of March 1 (if it is a business day), or midnight of the first business day thereafter (if March 1 is not a business day), immediately following the control period and is the deadline by which a CAIR SO<sub>2</sub> allowance transfer must be submitted for recordation in a CAIR SO<sub>2</sub> source's compliance account in order to be used to meet the source's CAIR SO<sub>2</sub> emissions limitation for such control period in accordance with section 8(j) and 8(k) of this rule.
- (6) "Alternate CAIR designated representative" means, for a CAIR SO<sub>2</sub> source and each CAIR SO<sub>2</sub> unit at the source, the natural person who is authorized by the owners and operators of the source and all such units at the source in accordance with sections 6 and 11 of this rule, to act on behalf of the CAIR designated representative in matters pertaining to the CAIR SO<sub>2</sub> trading program. If the CAIR SO<sub>2</sub> source is also a CAIR NO<sub>x</sub> source, then this natural person shall be the same person as the alternate CAIR designated representative under the CAIR NO<sub>x</sub> annual trading program. If the CAIR SO<sub>2</sub> source is also a CAIR NO<sub>x</sub> ozone season source, then this natural person shall be the same person as the alternate CAIR designated representative under the CAIR NO<sub>x</sub> ozone season trading program. If the CAIR SO<sub>2</sub> source is also subject to the acid rain program, then this natural person shall be the same person as the alternate designated representative under the acid rain program. If the CAIR SO<sub>2</sub> source is also subject to the mercury budget trading program, then this natural person shall be the same person as the alternate mercury designated representative under the mercury budget trading program.
- (7) "Automated data acquisition and handling system" or "DAHS" means that component of the continuous emission monitoring system, or other emissions monitoring system approved for use under section 10 of this rule, designed to interpret and convert individual output signals from pollutant concentration monitors, flow monitors, diluent gas monitors, and other component parts of the monitoring system to produce a continuous record of the measured parameters in the measurement units required by section 10 of this rule.
- (8) "Boiler" means an enclosed fossil- or other-fuel-fired combustion device used to produce heat and to transfer heat to recirculating water, steam, or other medium.
- (9) "Bottoming-cycle cogeneration unit" means a cogeneration unit in which the energy input to the unit is first used to produce useful thermal energy and at least some of the reject heat from the useful thermal energy application or process is then used for electricity production.
- (10) "CAIR authorized account representative" means, with regard to a general account, a responsible natural person who is authorized, in accordance with sections 6, 8, and 11 of this rule, to transfer and otherwise dispose of CAIR SO<sub>2</sub> allowances held in the general account and, with regard to a compliance account, the CAIR designated representative of the source.
- (11) "CAIR designated representative" means, for a CAIR SO<sub>2</sub> source and each CAIR SO<sub>2</sub> unit at the source, the natural person who is authorized by the owners and operators of the source and all such units at the source, in accordance with sections 6 and 11 of this rule, to represent and legally bind each owner and operator in matters pertaining to the CAIR SO<sub>2</sub> trading program. If the CAIR SO<sub>2</sub> source is also a CAIR NO<sub>x</sub> source, then this natural person shall be the same person as the CAIR designated representative under the CAIR NO<sub>x</sub> annual trading program. If the CAIR SO<sub>2</sub> source is also a CAIR NO<sub>x</sub> ozone season source, then this natural person shall be the same person as the CAIR designated representative under the CAIR NO<sub>x</sub> ozone season trading program. If the CAIR SO<sub>2</sub> source



is also subject to the acid rain program, then this natural person shall be the same person as the designated representative under the acid rain program. If the CAIR SO<sub>2</sub> source is also subject to the mercury budget trading program, then this natural person shall be the same person as the alternate mercury designated representative under the mercury budget trading program.

(12) "CAIR NO<sub>x</sub> annual trading program" means a multistate nitrogen oxides air pollution control and emission reduction program approved and administered by the U.S. EPA in accordance with this [326 IAC 24-1](#), 40 CFR 96\*, and 40 CFR 51.123\* or established by the U.S. EPA in accordance with 40 CFR 97, Subparts AA through II\* and 40 CFR 51.123(p)\* and 40 CFR 52.35\*, as a means of mitigating interstate transport of fine particulates and nitrogen oxides.

(13) "CAIR NO<sub>x</sub> ozone season source" means a source that is subject to the CAIR NO<sub>x</sub> ozone season trading program.

(14) "CAIR NO<sub>x</sub> ozone season trading program" means a multistate nitrogen oxides air pollution control and emission reduction program approved and administered by the U.S. EPA in accordance with [326 IAC 24-3](#) and 40 CFR 51.123\* or established by the U.S. EPA in accordance with 40 CFR 97, Subparts AAAA through IIII\* and 40 CFR 51.123(ee)\* and 40 CFR 52.35\*, as a means of mitigating interstate transport of ozone and nitrogen oxides.

(15) "CAIR NO<sub>x</sub> source" means a source that is subject to the CAIR NO<sub>x</sub> annual trading program.

(16) "CAIR permit" means the legally binding and federally enforceable written document, or portion of such document, issued by the department under section 7 of this rule, including any permit revisions, specifying the CAIR SO<sub>2</sub> trading program requirements applicable to a CAIR SO<sub>2</sub> source, to each CAIR SO<sub>2</sub> unit at the source, and to the owners and operators and the CAIR designated representative of the source and each such unit.

(17) "CAIR SO<sub>2</sub> allowance" means a limited authorization issued by the U.S. EPA under the acid rain program, or by a department under section 11(j) of this rule, to emit sulfur dioxide during the control period of the specified calendar year for which the authorization is allocated or of any calendar year thereafter under the CAIR SO<sub>2</sub> trading program as follows:

(A) For one (1) CAIR SO<sub>2</sub> allowance allocated for a control period in a year before 2010, one (1) ton of sulfur dioxide, except as provided in section 11(k) of this rule.

(B) For one (1) CAIR SO<sub>2</sub> allowance allocated for a control period in 2010 through 2014, fifty-hundredths (0.50) ton of sulfur dioxide, except as provided in section 11(k) of this rule.

(C) For one (1) CAIR SO<sub>2</sub> allowance allocated for a control period in 2015 or later, thirty-five hundredths (0.35) ton of sulfur dioxide, except as provided in section 11(k) of this rule.

An authorization to emit sulfur dioxide that is not issued under the acid rain program or under the provisions of a state implementation plan that is approved under 40 CFR 51.124(o)(1) or 40 CFR 51.124(o)(2)\* shall not be a CAIR SO<sub>2</sub> allowance.

(18) "CAIR SO<sub>2</sub> allowance deduction" or "deduct CAIR SO<sub>2</sub> allowances" means the permanent withdrawal of CAIR SO<sub>2</sub> allowances by the U.S. EPA from a compliance account, for example, in order to account for a specified number of tons of total sulfur dioxide emissions from all CAIR SO<sub>2</sub> units at a CAIR SO<sub>2</sub> source for a control period, determined in accordance with section 10 of this rule, or to account for excess emissions.

(19) "CAIR SO<sub>2</sub> allowances held" or "hold CAIR SO<sub>2</sub> allowances" means the CAIR SO<sub>2</sub> allowances recorded by the U.S. EPA, or submitted to the U.S. EPA for recordation, in accordance with sections 8, 9, and 11 of this rule or 40 CFR 73\*, in a CAIR SO<sub>2</sub> allowance tracking system account.

(20) "CAIR SO<sub>2</sub> allowance tracking system" means the system by which the U.S. EPA records allocations, deductions, and transfers of CAIR SO<sub>2</sub> allowances under the CAIR SO<sub>2</sub> trading program. This is the same system as the allowance tracking system under 40 CFR 72.2\* by which the U.S. EPA records allocations, deduction, and transfers of acid rain SO<sub>2</sub> allowances under the acid rain program.

(21) "CAIR SO<sub>2</sub> allowance tracking system account" means an account in the CAIR SO<sub>2</sub> allowance tracking system established by the U.S. EPA for purposes of recording the allocation, holding, transferring, or deducting of CAIR SO<sub>2</sub> allowances. Such allowances will be allocated, held, deducted, or transferred only as whole allowances.

(22) "CAIR SO<sub>2</sub> emissions limitation" means, for a CAIR SO<sub>2</sub> source, the tonnage equivalent, in SO<sub>2</sub> emissions in a control period, of the CAIR SO<sub>2</sub> allowances available for deduction for the source under section 8(j) and 8(k) of this rule for the control period.

(23) "CAIR SO<sub>2</sub> source" means a source that includes one (1) or more CAIR SO<sub>2</sub> units.

(24) "CAIR SO<sub>2</sub> trading program" means a multistate sulfur dioxide air pollution control and emission reduction program approved and administered by the U.S. EPA in accordance with this rule, 40 CFR 96\*, and 40 CFR 51.124\* or established by the U.S. EPA in accordance with 40 CFR 97, Subparts AAA through III\* and 51.124(r)\* and 40 CFR 52.36\*, as a means of mitigating interstate transport of fine particulates and sulfur dioxide.

(25) "CAIR SO<sub>2</sub> unit" means a unit that is subject to the CAIR SO<sub>2</sub> trading program under section 1 of



this rule and, except for purposes of section 3 of this rule, a CAIR SO<sub>2</sub> opt-in unit under section 11 of this rule.

(26) "Coal" means any solid fuel classified as anthracite, bituminous, subbituminous, or lignite.

(27) "Coal-derived fuel" means any fuel, whether in a solid, liquid, or gaseous state, produced by the mechanical, thermal, or chemical processing of coal.

(28) "Coal-fired" means combusting any amount of coal or coal-derived fuel, alone, or in combination with any amount of any other fuel.

(29) "Cogeneration unit" means a stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine:

(A) having equipment used to produce electricity and useful thermal energy for industrial, commercial, heating, or cooling purposes through the sequential use of energy; and

(B) producing during the twelve (12) month period starting on the date the unit first produces electricity and during any calendar year after the calendar in which the unit first produces electricity:

(i) for a topping-cycle cogeneration unit:

(AA) useful thermal energy not less than five percent (5%) of total energy output; and

(BB) useful power that, when added to one-half (½) of useful thermal energy produced, is not less than forty-two and one-half percent (42.5%) of total energy input, if useful thermal energy produced is fifteen percent (15%) or more of total energy output, or not less than forty-five percent (45%) of total energy input, if useful thermal energy produced is less than fifteen percent (15%) of total energy output; and

(ii) for a bottoming-cycle cogeneration unit, useful power not less than forty-five percent (45%) of total energy input.

(30) "Combustion turbine" means:

(A) an enclosed device comprising a compressor, a combustor, and a turbine and in which the flue gas resulting from the combustion of fuel in the combustor passes through the turbine, rotating the turbine; and

(B) if the enclosed device under clause (A) is combined cycle, any associated duct burner, heat recovery steam generator and steam turbine.

(31) "Commence commercial operation" means, with regard to a unit, the following:

(A) To have begun to produce steam, gas, or other heated medium used to generate electricity for sale or use, including test generation, except as provided in sections 3 and 11(f)(10) of this rule, subject to the following:

(i) For a unit that is a CAIR SO<sub>2</sub> unit under section 1 of this rule on the later of November 15, 1990, or the date the unit commences commercial operation as defined in this clause and that subsequently undergoes a physical change, other than replacement of the unit by a unit at the same source, such date shall remain the date of commencement of commercial operation of the unit, which shall continue to be treated as the same unit.

(ii) For a unit that is a CAIR SO<sub>2</sub> unit under section 1 of this rule on the later of November 15, 1990, or the date the unit commences commercial operation as defined in this clause and that is subsequently replaced by a unit at the same source (for example, repowered), such date shall remain the replaced unit's date of commencement of commercial operation, and the replacement unit shall be treated as a separate unit with a separate date for commencement of commercial operation as defined in this clause or clause (B) as appropriate.

(B) Notwithstanding clause (A) and except as provided in section 3 of this rule, for a unit that is not a CAIR SO<sub>2</sub> unit under section 1 of this rule on the later of November 15, 1990, or date the unit commences commercial operation as defined in clause (A), the unit's date for commencement of commercial operation shall be the date on which the unit becomes a CAIR SO<sub>2</sub> unit under section 1 of this rule, subject to the following:

(i) For a unit with a date for commencement of commercial operation as defined in this clause and that subsequently undergoes a physical change (other than replacement of the unit by a unit at the same source) such date shall remain the date of commencement of commercial operation, which shall continue to be treated as the same unit.

(ii) For a unit with a date for commencement of commercial operation as defined in this clause and that is subsequently replaced by a unit at the same source (for example, repowered), such date shall remain the replaced unit's date of commencement of commercial operation, and the replacement unit shall be treated as a separate unit with a separate date for commencement of commercial operation as defined in this clause, or clause (B), as appropriate.

(32) "Commence operation" means the following:

(A) To have begun any mechanical, chemical, or electronic process, including, with regard to a unit, start-up of a unit's combustion chamber, except as provided in section 11(f)(10) of this rule.

(B) For a unit that undergoes a physical change (other than replacement of the unit by a unit at the

same source) after the date the unit commences operation as defined in clause (A), such date shall remain the date of commencement of operation of the unit, which shall continue to be treated as the same unit.

(C) For a unit that is replaced by a unit at the same source (for example, repowered) after the date the unit commences operation as defined in clause (A), such date shall remain the replaced unit's date of commencement, and the replacement unit shall be treated as a separate unit with a separate date for commencement of operation as defined in this clause or clause (A) or (B), as appropriate, except as provided in section 11(f)(10) of this rule.

(33) "Common stack means" a single flue through which emissions from two (2) or more units are exhausted.

(34) "Compliance account" means a CAIR SO<sub>2</sub> allowance tracking system account, established by the U.S. EPA for a CAIR SO<sub>2</sub> source subject to an acid rain emissions limitations under 40 CFR 73.31(a)\* or 40 CFR 73.31(b)\* or for any other CAIR SO<sub>2</sub> source under section 8 or 11 of this rule, in which any CAIR SO<sub>2</sub> allowance allocations for the CAIR SO<sub>2</sub> units at the source are initially recorded and in which are held any CAIR SO<sub>2</sub> allowances available for use for a control period in order to meet the source's CAIR SO<sub>2</sub> emissions limitation in accordance with section 8(j) and 8(k) of this rule.

(35) "Continuous emission monitoring system" or "CEMS" means the equipment required under section 10 of this rule to sample, analyze, measure, and provide, by means of readings recorded at least once every fifteen (15) minutes, using an automated data acquisition and handling system (DAHS), a permanent record of sulfur dioxide emissions, stack gas volumetric flow rate, stack gas moisture content, and oxygen or carbon dioxide concentration, as applicable, in a manner consistent with 40 CFR 75\*. The following systems are the principal types of continuous emission monitoring systems required under section 10 of this rule:

(A) a flow monitoring system, consisting of a stack flow rate monitor and an automated data acquisition and handling system and providing a permanent, continuous record of stack gas volumetric flow rate, in standard cubic feet per hour (scfh);

(B) a sulfur dioxide monitoring system, consisting of a SO<sub>2</sub> pollutant concentration monitor and an automated data acquisition and handling system and providing a permanent, continuous record of SO<sub>2</sub> emissions, in parts per million (ppm);

(C) a moisture monitoring system, as defined in 40 CFR 75.11(b)(2)\* and providing a permanent, continuous record of the stack gas moisture content, in percent H<sub>2</sub>O;

(D) a carbon dioxide monitoring system, consisting of a CO<sub>2</sub> pollutant concentration monitor, or an oxygen monitor plus suitable mathematical equations from which the CO<sub>2</sub> concentration is derived, and an automated data acquisition and handling system and providing a permanent, continuous record of CO<sub>2</sub> emissions, in percent CO<sub>2</sub>; and

(E) an oxygen monitoring system, consisting of an O<sub>2</sub> concentration monitor and an automated data acquisition and handling system and providing a permanent, continuous record of O<sub>2</sub>, in percent O<sub>2</sub>.

(36) "Control period" means the period beginning January 1 of a calendar year, except as provided in section 4(c)(2) of this rule, and ending on December 31 of the same year, inclusive.

(37) "Emissions" means air pollutants exhausted from a unit or source into the atmosphere, as measured, recorded, and reported to the U.S. EPA by the CAIR designated representative and as determined by the U.S. EPA in accordance with section 10 of this rule.

(38) "Excess emissions" means any ton, or portion of a ton, of sulfur dioxide emitted by the CAIR SO<sub>2</sub> units at a CAIR SO<sub>2</sub> source during a control period that exceeds the CAIR SO<sub>2</sub> emissions limitation for the source, provided that any portion of a ton of excess emissions shall be treated as one (1) ton of excess emissions.

(39) "Fossil fuel" means natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from such material.

(40) "Fossil-fuel-fired" means, with regard to a unit, combusting any amount of fossil fuel in any calendar year.

(41) "General account" means a CAIR SO<sub>2</sub> allowance tracking system account, established under section 8 of this rule, that is not a compliance account.

(42) "Generator" means a device that produces electricity.

(43) "Heat input" means, with regard to a specified period of time, the product, in million British thermal units per unit of time (MMBtu/time) of the gross calorific value of the fuel, in British thermal units per pound (Btu/lb), divided by one million (1,000,000) British thermal units per million British thermal units (Btu/MMBtu) and multiplied by the fuel feed rate into a combustion device, in pounds of fuel per unit of time (lb of fuel/time), as measured, recorded, and reported to the U.S. EPA by the CAIR designated representative and determined by the U.S. EPA in accordance with section 10 of this rule and excluding the heat derived from preheated combustion air, recirculated flue gases, or exhaust from other sources.

(44) "Heat input rate" means the amount of heat input, in million British thermal units (MMBtu), divided by unit operating time, in hours, or, with regard to a specific fuel, the amount of heat input attributed to the fuel, in million British thermal units (MMBtu), divided by the unit operating time, in hours, during which the unit combusts the fuel.

(45) "Life-of-the-unit, firm power contractual arrangement" means a unit participation power sales agreement under which a utility or industrial customer reserves, or is entitled to receive, a specified amount or percentage of nameplate capacity and associated energy generated by any specified unit and pays its proportional amount of such unit's total costs, pursuant to a contract:

(A) for the life of the unit;

(B) for a cumulative term of no less than thirty (30) years, including contracts that permit an election for early termination; or

(C) for a period no less than twenty-five (25) years or seventy percent (70%) of the economic useful life of the unit determined as of the time the unit is built, with option rights to purchase or release some portion of the nameplate capacity and associated energy generated by the unit at the end of the period.

(46) "Maximum design heat input" means the maximum amount of fuel per hour, in British thermal units per hour (Btu/hr), that a unit is capable of combusting on a steady state basis as of the initial installation of the unit as specified by the manufacturer of the unit.

(47) "Mercury budget trading program" means a multistate mercury air pollution control and emission reduction program approved and administered by the U.S. EPA in accordance with 40 CFR 60, Subpart HHHH\* and 40 CFR 60.24(h)(6)\*, or established by the U.S. EPA under the Clean Air Act, Section 111, as a means of reducing national mercury emissions.

(48) "Monitoring system" means any monitoring system that meets the requirements of section 10 of this rule, including a continuous emissions monitoring system, an alternative monitoring system, or an excepted monitoring system under 40 CFR 75\*.

(49) "Most stringent state or federal SO<sub>2</sub> emissions limitation" means, with regard to a unit, the lowest SO<sub>2</sub> emissions limitation, in terms of pounds per million British thermal units (lb/MMBtu), that is applicable to the unit under state or federal law, regardless of the averaging period to which the emissions limitation applies.

(50) "Nameplate capacity" means, starting from the initial installation of a generator, the maximum electrical generating output, in megawatt electrical (MWe), that the generator is capable of producing on a steady state basis and during continuous operation (when not restricted by seasonal or other deratings) as of such installation as specified by the manufacturer of the generator or, starting from the completion of any subsequent physical change in the generator resulting in an increase in the maximum electrical generating output, in megawatt electrical (MWe), that the generator is capable of producing on a steady state basis and during continuous operation (when not restricted by seasonal or other deratings) such increased maximum amount as of such completion as specified by the person conducting the physical change.

(51) "Operator" means any person who operates, controls, or supervises a CAIR SO<sub>2</sub> unit or a CAIR SO<sub>2</sub> source and shall include, but not be limited to, any holding company, utility system, or plant manager of such a unit or source.

(52) "Owner" means any of the following persons:

(A) with regard to a CAIR SO<sub>2</sub> source or a CAIR SO<sub>2</sub> unit at a source, respectively:

(i) any holder of any portion of the legal or equitable title in a CAIR SO<sub>2</sub> unit at the source or the CAIR SO<sub>2</sub> unit;

(ii) any holder of a leasehold interest in a CAIR SO<sub>2</sub> unit at the source or the CAIR SO<sub>2</sub> unit; or

(iii) any purchaser of power from a CAIR SO<sub>2</sub> unit at the source or the CAIR SO<sub>2</sub> unit under a life-of-the-unit, firm power contractual arrangement; provided that, unless expressly provided for in a leasehold agreement, owner shall not include a passive lessor, or a person who has an equitable interest through such lessor, whose rental payments are not based, either directly or indirectly, on the revenues or income from such CAIR SO<sub>2</sub> unit; or

(B) with regard to any general account, any person who has an ownership interest with respect to the CAIR SO<sub>2</sub> allowances held in the general account and who is subject to the binding agreement for the CAIR<sup>2</sup> authorized account representative to represent the person's ownership interest with respect to CAIR SO<sub>2</sub> allowances.

(53) "Potential electrical output capacity" means thirty-three percent (33%) of a unit's maximum design heat input, divided by three thousand four hundred thirteen (3,413) Btu/kilowatt hour, divided by one thousand (1,000) kilowatt hour/megawatt hour, and multiplied by eight thousand seven hundred sixty (8,760) hours/year.

(54) "Receive" or "receipt of" means, when referring to the department or the U.S. EPA, to come into possession of a document, information, or correspondence, whether sent in hard copy or by

authorized electronic transmission, as indicated in an official log, or by a notation made on the document, information, or correspondence, by the department or the U.S. EPA in the regular course of business.

(55) "Recordation", "record", or "recorded" means, with regard to CAIR SO<sub>2</sub> allowances, the movement of CAIR SO<sub>2</sub> allowances by the U.S. EPA into or between CAIR SO<sub>2</sub> allowance tracking system accounts, for purposes of allocation, transfer, or deduction.

(56) "Reference method" means any direct test method of sampling and analyzing for an air pollutant as specified in 40 CFR 75.22\*.

(57) "Replacement", "replace", or "replaced" means, with regard to a unit, the demolishing of a unit, or the permanent shutdown and permanent disabling of a unit, and the construction of another unit (the replacement unit) to be used instead of the demolished or shutdown unit (the replaced unit).

(58) "Repowered" means, with regard to a unit, replacement of a coal-fired boiler with one (1) of the following coal-fired technologies at the same source as the coal-fired boiler:

(A) atmospheric or pressurized fluidized bed combustion;

(B) integrated gasification combined cycle;

(C) magnetohydrodynamics;

(D) direct and indirect coal-fired turbines;

(E) integrated gasification fuel cells; or

(F) as determined by the U.S. EPA in consultation with the Secretary of Energy, a derivative of one (1) or more of the technologies under clauses (A) through (E) and any other coal-fired technology capable of controlling multiple combustion emissions simultaneously with improved boiler or generation efficiency and with significantly greater waste reduction relative to the performance of technology in widespread commercial use as of January 1, 2005.

(59) "Sequential use of energy" means:

(A) for a topping-cycle cogeneration unit, the use of reject heat from electricity production in a useful thermal energy application or process; or

(B) for a bottoming-cycle cogeneration unit, the use of reject heat from useful thermal energy application or process in electricity production.

(60) "Serial number" means, for a CAIR SO<sub>2</sub> allowance, the unique identification number assigned to each CAIR SO<sub>2</sub> allowance by the U.S. EPA.

(61) "Solid waste incineration unit" means a stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine that is a solid waste incineration units as defined in the Clean Air Act, Section 129(g)(1).

(62) "Source" means all buildings, structures, or installations located in one (1) or more contiguous or adjacent properties under common control of the same person or persons. For purposes of Section 502(c) of the Clean Air Act, a source, including a source with multiple units, shall be considered a single facility.

(63) "Submit" or "serve" means to send or transmit a document, information, or correspondence to the person specified in accordance with the applicable rule:

(A) in person;

(B) by United States Postal Service; or

(C) by other means of dispatch or transmission and delivery.

Compliance with any submission or service deadline shall be determined by the date of dispatch, transmission, or mailing and not the date of receipt by the department or U.S. EPA.

(64) "Title V operating permit" or "Part 70 operating permit" means a permit issued under [326 IAC 2-7](#).

(65) "Title V operating permit regulations" means the rules under [326 IAC 2-7](#).

(66) "Ton" means two thousand (2,000) pounds. For the purpose of determining compliance with the CAIR SO<sub>2</sub> emissions limitation, total tons of sulfur dioxide emissions for a control period shall be calculated as the sum of all recorded hourly emissions, or the mass equivalent of the recorded hourly emission rates, in accordance with section 10 of this rule, but with any remaining fraction of a ton equal to or greater than fifty-hundredths (0.50) tons deemed to equal one (1) ton and any remaining fraction of a ton less than fifty-hundredths (0.50) tons deemed to equal zero (0) tons.

(67) "Topping-cycle cogeneration unit" means a cogeneration unit in which the energy input to the unit is first used to produce useful power, including electricity, and at least some of the reject heat from the electricity production is then used to provide useful thermal energy.

(68) "Total energy input" means, with regard to a cogeneration unit, total energy of all forms supplied to the cogeneration unit, excluding energy produced by the cogeneration unit itself.

(69) "Total energy output" means, with regard to a cogeneration unit, the sum of useful power and useful thermal energy produced by the cogeneration unit.

(70) "Unit" means a stationary, fossil-fuel-fired boiler or combustion turbine or other stationary, fossil-fuel-fired combustion device.

(71) "Unit operating day" means a calendar day in which a unit combusts any fuel.

(72) "Unit operating hour" or "hour of unit operation" means an hour in which a unit combusts any fuel.

(73) "Useful power" means, with regard to a cogeneration unit, electricity or mechanical energy made available for use, excluding any such energy used in the power production process, which process includes, but is not limited to, any on-site processing or treatment of fuel combusted at the unit and any on-site emission controls.

(74) "Useful thermal energy" means, with regard to a cogeneration unit, thermal energy that is:

(A) made available to an industrial or commercial process, not a power production process, excluding any heat contained in condensate return or makeup water;

(B) used in a heating application (for example, space heating or domestic hot water heating); or

(C) used in a space cooling application (that is, thermal energy used by an absorption chiller).

(75) "Utility power distribution system" means the portion of an electricity grid owned or operated by a utility and dedicated to delivering electricity to customers.

\*These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.

(Air Pollution Control Board; [326 IAC 24-2-2](#))

### **[326 IAC 24-2-3](#) Retired unit exemptions**

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 3. (a) This section applies to any CAIR SO<sub>2</sub> unit, other than a SO<sub>2</sub> opt-in source, that is permanently retired.

(b) Any CAIR SO<sub>2</sub> unit that is permanently retired and is not a CAIR SO<sub>2</sub> opt-in unit under section 11 of this rule shall be exempt from the CAIR SO<sub>2</sub> trading program, except for the provisions of this section and sections 1, 2, 4(c)(4) through 4(c)(7), 5, 6, 8, and 9 of this rule.

(c) The exemption under this section shall become effective the day on which the CAIR SO<sub>2</sub> unit is permanently retired. Within thirty (30) days of the unit's permanent retirement, the CAIR designated representative shall submit a statement to the department and shall submit a copy of the statement to the U.S. EPA. The statement shall state, in a format prescribed by the department, that the unit was permanently retired on a specific date and shall comply with the requirements of subsection (e).

(d) After receipt of the statement under subsection (c), the department shall amend any permit under section 7 of this rule covering the source at which the unit is located to add the provisions and requirements of the exemption under subsections (b) and (e).

(e) A unit exempt under this section shall comply with the following provisions:

(1) The unit shall not emit any sulfur dioxide, starting on the date that the exemption takes effect.

(2) For a period of five (5) years from the date the records are created, the owners and operators of the unit shall retain, at the source that includes the unit, or a central location within Indiana for those owners and operators with unattended sources, records demonstrating that the unit is permanently retired. The five (5) year period for keeping records may be extended for cause, at any time before the end of the period, in writing by the department or U.S. EPA. The owners and operators bear the burden of proof that the unit is permanently retired.

(3) The owners and operators and, to the extent applicable, the CAIR designated representative of the unit shall comply with the requirements of the CAIR SO<sub>2</sub> trading program concerning all periods for which the exemption is not in effect, even if such requirements arise, or must be complied with, after the exemption takes effect.

(4) If the unit is located at a source that is required, or but for this exemption would be required, to have an operating permit under [326 IAC 2-7](#), the unit shall not resume operation unless the CAIR

designated representative of the source submits a complete CAIR permit application under section 7(c) of this rule for the unit not less than two hundred seventy (270) days before the later of January 1, 2010, or the date on which the unit resumes operation.

(5) A unit exempt under this section shall lose its exemption on the earlier of the following dates:

(A) The date on which the CAIR designated representative submits a CAIR permit application for the unit under subdivision (4).

(B) The date on which the CAIR designated representative is required under subdivision (4) to submit a CAIR permit application for the unit.

(C) The date on which the unit resumes operation, if the CAIR designated representative is not required to submit a CAIR permit application for the unit.

(6) For the purpose of applying monitoring, reporting, and record keeping requirements under section 10 of this rule, a unit that loses its exemption under this section shall be treated as a unit that commences commercial operation on the first date on which the unit resumes operation.

(Air Pollution Control Board; [326 IAC 24-2-3](#))

### **[326 IAC 24-2-4](#) Standard requirements**

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 4. (a) The owners and operators, and CAIR designated representative of each CAIR SO<sub>2</sub> source shall comply with the following permit requirements:

(1) The CAIR designated representative of each CAIR SO<sub>2</sub> source required to have a permit under [326 IAC 2-7](#) and each CAIR SO<sub>2</sub> unit required to have a permit under [326 IAC 2-7](#) at the source shall submit the following to the department:

(A) A complete CAIR permit application under section 7(c) of this rule in accordance with the deadlines specified in section 7(b) of this rule.

(B) Any supplemental information that the department determines is necessary in order to review a CAIR permit application in a timely manner and issue or deny a CAIR permit.

(2) The owners and operators of each CAIR SO<sub>2</sub> source required to have a Part 70 operating permit and each CAIR SO<sub>2</sub> unit required to have a permit under [326 IAC 2-7](#) at the source shall have a CAIR permit issued by the department under section 7 of this rule for the source and operate the source and the unit in compliance with such CAIR permit.

(3) Except as provided in section 11 of this rule, the owners and operators of a CAIR SO<sub>2</sub> source that is not otherwise required to have a permit under [326 IAC 2-7](#) and each CAIR SO<sub>2</sub> unit that is not otherwise required to have a permit under [326 IAC 2-7](#) are not required to submit a CAIR permit application, and to have a CAIR permit, under section 7 of this rule for such CAIR SO<sub>2</sub> source and such CAIR SO<sub>2</sub> unit.

(b) The owners and operators, and the CAIR designated representative, of each CAIR SO<sub>2</sub> source and CAIR SO<sub>2</sub> unit at the source shall comply with the following monitoring, reporting, and record keeping requirements:

(1) The monitoring, reporting, and record keeping requirements of section 10 of this rule.

(2) The emissions measurements recorded and reported in accordance with section 10 of this rule shall be used to determine compliance by each CAIR SO<sub>2</sub> source with the CAIR SO<sub>2</sub> emission requirements under subsection (c).

(c) The owners and operators, and the CAIR designated representative, of each CAIR SO<sub>2</sub> source and CAIR SO<sub>2</sub> unit at the source shall comply with the following SO<sub>2</sub> emission requirements:

(1) As of the allowance transfer deadline for a control period, the owners and operators of each CAIR SO<sub>2</sub> source and each CAIR SO<sub>2</sub> unit at the source shall hold, in the source's compliance account, a tonnage equivalent in CAIR SO<sub>2</sub> allowances available for compliance deductions for the control period, as determined in accordance with section 8(j) and 8(k) of this rule, not less than the tons of total sulfur dioxide emissions for the control period from all CAIR SO<sub>2</sub> units at the source, as determined in accordance with section 10 of this rule.

(2) A CAIR SO<sub>2</sub> unit shall be subject to the requirements under subdivision (1) for the control period starting on the later of January 1, 2010 or the deadline for meeting the unit's monitor certification requirements under section 10(c)(1), 10(c)(2), or 10(c)(5) of this rule and for each control period



thereafter.

(3) A CAIR SO<sub>2</sub> allowance shall not be deducted, for compliance with the requirements under subdivision (1), for a control period in a calendar year before the year for which the CAIR SO<sub>2</sub> allowance was allocated.

(4) CAIR SO<sub>2</sub> allowances shall be held in, deducted from, or transferred into or among CAIR SO<sub>2</sub> allowance tracking system accounts in accordance with sections 8 and 9 of this rule.

(5) A CAIR SO<sub>2</sub> allowance is a limited authorization to emit sulfur dioxide in accordance with the CAIR SO<sub>2</sub> trading program. No provision of the CAIR SO<sub>2</sub> trading program, the CAIR permit application, the CAIR permit, or an exemption under section 3 of this rule and no provision of law shall be construed to limit the authority of the department or the U.S. EPA to terminate or limit such authorization.

(6) A CAIR SO<sub>2</sub> allowance does not constitute a property right.

(7) Upon recordation by the U.S. EPA under section 8, 9, or 11 of this rule, every allocation, transfer, or deduction of a CAIR SO<sub>2</sub> allowance to or from a CAIR SO<sub>2</sub> source's compliance account is incorporated automatically in any CAIR permit of the source.

(d) If a CAIR SO<sub>2</sub> source emits sulfur dioxide during any control period in excess of the CAIR SO<sub>2</sub> emissions limitation, then:

(1) the owners and operators of the source and each CAIR SO<sub>2</sub> unit at the source shall surrender the CAIR SO<sub>2</sub> allowances required for deduction under section 8(k)(4) of this rule and pay any fine, penalty, or assessment or comply with any other remedy imposed, for the same violations, under the Clean Air Act or applicable state law; and

(2) each ton of such excess emissions and each day of such control period shall constitute a separate violation of this rule, the Clean Air Act, and applicable state law.

(e) Owners and operators of each CAIR SO<sub>2</sub> source and each CAIR SO<sub>2</sub> unit at the source shall comply with the following record keeping and reporting requirements:

(1) Unless otherwise provided, the owners and operators of the CAIR SO<sub>2</sub> source and each CAIR SO<sub>2</sub> unit at the source shall keep on site at the source or a central location within Indiana for those owners and operators with unattended sources, each of the following documents for a period of five (5) years from the date the document is created. This period may be extended for cause, at any time before the end of five (5) years, in writing by the department or U.S. EPA:

(A) The certificate of representation under section 6(h) of this rule for the CAIR designated representative for the source and each CAIR SO<sub>2</sub> unit at the source and all documents that demonstrate the truth of the statements in the certificate of representation; provided that the certificate and documents shall be retained on site at the source, or a central location within Indiana for those owners and operators with unattended sources beyond such five (5) year period until such documents are superseded because of the submission of a new certificate of representation under section 6(h) of this rule changing the CAIR designated representative.

(B) All emissions monitoring information, in accordance with section 10 of this rule, provided that to the extent that section 10 of this rule provides for a three (3) year period for record keeping, the three (3) year period shall apply.

(C) Copies of all reports, compliance certifications, and other submissions and all records made or required under the CAIR SO<sub>2</sub> trading program.

(D) Copies of all documents used to complete a CAIR permit application and any other submission under the CAIR SO<sub>2</sub> trading program or to demonstrate compliance with the requirements of the CAIR SO<sub>2</sub> trading program.

(2) The CAIR designated representative of a CAIR SO<sub>2</sub> source and each CAIR SO<sub>2</sub> unit at the source shall submit the reports required under the CAIR SO<sub>2</sub> trading program, including those under section 10 of this rule.

(f) The owners and operators of each CAIR SO<sub>2</sub> source and each CAIR SO<sub>2</sub> unit shall be liable as follows:

(1) Each CAIR SO<sub>2</sub> source and each CAIR SO<sub>2</sub> unit shall meet the requirements of the CAIR SO<sub>2</sub> trading program.

(2) Any provision of the CAIR SO<sub>2</sub> trading program that applies to a CAIR SO<sub>2</sub> source or the CAIR designated representative of a CAIR SO<sub>2</sub> source shall also apply to the owners and operators of such source and of the CAIR SO<sub>2</sub> units at the source.

(3) Any provision of the CAIR SO<sub>2</sub> trading program that applies to a CAIR SO<sub>2</sub> unit or the CAIR designated representative of a CAIR SO<sub>2</sub> unit shall also apply to the owners and operators of such unit.

(g) No provision of the CAIR SO<sub>2</sub> trading program, a CAIR permit application, a CAIR permit, or an exemption under section 3 of this rule shall be construed as exempting or excluding the owners and operators, and the CAIR designated representative, of a CAIR SO<sub>2</sub> source or CAIR SO<sub>2</sub> unit from compliance with any other provision of the applicable, approved state implementation plan, a federally enforceable permit, or the Clean Air Act.

(Air Pollution Control Board; [326 IAC 24-2-4](#))

#### [326 IAC 24-2-5](#) Computation of time and appeal procedures

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 5. (a) Unless otherwise stated, any time period scheduled, under the CAIR SO<sub>2</sub> trading program, to begin on the occurrence of an act or event shall begin on the day the act or event occurs.

(b) Unless otherwise stated, any time period scheduled, under the CAIR SO<sub>2</sub> trading program, to begin before the occurrence of an act or event shall be computed so that the period ends the day before the act or event occurs.

(c) Unless otherwise stated, if the final day of any time period, under the CAIR SO<sub>2</sub> trading program, falls on a weekend or a state or federal holiday, the time period shall be extended to the next business day.

(d) The appeal procedures for decisions of the U.S. EPA under the CAIR SO<sub>2</sub> trading program are set forth in 40 CFR 78\*.

(Air Pollution Control Board; [326 IAC 24-2-5](#))

#### [326 IAC 24-2-6](#) CAIR designated representative for CAIR SO<sub>2</sub> sources

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 6. (a) Except as provided under subsection (f), each CAIR SO<sub>2</sub> source, including all CAIR SO<sub>2</sub> units at the source, shall have one (1) and only one (1) CAIR designated representative, with regard to all matters under the CAIR SO<sub>2</sub> trading program concerning the source or any CAIR SO<sub>2</sub> unit at the source.

(b) The CAIR designated representative of the CAIR SO<sub>2</sub> source shall be selected by an agreement binding on the owners and operators of the source and all CAIR SO<sub>2</sub> units at the source and shall act in accordance with the certification statement in subsection (h)(4).

(c) Upon receipt by the U.S. EPA of a complete certificate of representation under subsection (h), the CAIR designated representative of the source shall represent and, by his or her representations, actions, inactions, or submissions, legally bind each owner and operator of the CAIR SO<sub>2</sub> source represented and each CAIR SO<sub>2</sub> unit at the source in all matters pertaining to the CAIR SO<sub>2</sub> trading program, notwithstanding any agreement between the CAIR designated representative and such owners and operators. The owners and operators shall be bound by any decision or order issued to the CAIR designated representative by the department, the U.S. EPA, or a court regarding the source or unit.

(d) No CAIR permit shall be issued, no emissions data reports shall be accepted, and no CAIR SO<sub>2</sub> allowance tracking system account will be established for a CAIR SO<sub>2</sub> unit at a source, until the U.S. EPA has received a complete certificate of representation under subsection (h) for a CAIR designated representative of the source and the CAIR SO<sub>2</sub> units at the source.

(e) The following shall apply to a submissions made under the CAIR SO<sub>2</sub> trading program:

- (1) Each submission under the CAIR SO<sub>2</sub> trading program shall be submitted, signed, and certified by the CAIR designated representative for each CAIR SO<sub>2</sub> source on behalf of which the submission is made. Each such submission shall include the following certification statement by the CAIR designated representative: "I am authorized to make this submission on behalf of the owners and operators of the source or units for which the submission is made. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment."
- (2) The department and U.S. EPA will accept or act on a submission made on behalf of owner or operators of a CAIR SO<sub>2</sub> source or a CAIR SO<sub>2</sub> unit only if the submission has been made, signed, and certified in accordance with subdivision (1).

(f) The following shall apply where the owners or operators of a CAIR SO<sub>2</sub> source choose to designate an alternate CAIR designated representative:

- (1) A certificate of representation under subsection (h) may designate one (1) and only one (1) alternate CAIR designated representative, who may act on behalf of the CAIR designated representative. The agreement by which the alternate CAIR designated representative is selected shall include a procedure for authorizing the alternate CAIR designated representative to act in lieu of the CAIR designated representative.
- (2) Upon receipt by the U.S. EPA of a complete certificate of representation under subsection (h), any representation, action, inaction, or submission by the alternate CAIR designated representative shall be deemed to be a representation, action, inaction, or submission by the CAIR designated representative.
- (3) Except in this subsection and subsections (a), (d), (g), (h), and (j) and sections 2, 8(a) through 8(c), and 11(d) of this rule, whenever the term CAIR designated representative is used in this rule, the term shall be construed to include the CAIR designated representative or any alternate CAIR designated representative.

(g) The following shall apply when changing the CAIR designated representative, the alternate CAIR designated representative, or there are changes in the owners or operators:

- (1) The CAIR designated representative may be changed at any time upon receipt by the U.S. EPA of a superseding complete certificate of representation under subsection (h). Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous CAIR designated representative before the time and date when the U.S. EPA receives the superseding certificate of representation shall be binding on the new CAIR designated representative and the owners and operators of the CAIR SO<sub>2</sub> source and the CAIR SO<sub>2</sub> units at the source.
- (2) The alternate CAIR designated representative may be changed at any time upon receipt by the U.S. EPA of a superseding complete certificate of representation under subsection (h). Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous alternate CAIR designated representative before the time and date when the U.S. EPA receives the superseding certificate of representation shall be binding on the new alternate CAIR designated representative and the owners and operators of the CAIR SO<sub>2</sub> source and the CAIR SO<sub>2</sub> units at the source.
- (3) Changes in the owner and operators shall be made as follows:
  - (A) In the event an owner or operator of a CAIR SO<sub>2</sub> source or a CAIR SO<sub>2</sub> unit is not included in the list of owners and operators in the certificate of representation under subsection (h), such owner or operator shall be deemed to be subject to and bound by the certificate of representation, the representations, actions, inactions, and submissions of the CAIR designated representative and any alternate CAIR designated representative of the source or unit, and the decisions and orders of the department, the U.S. EPA, or a court, as if the owner or operator were included in such list.
  - (B) Within thirty (30) days following any change in the owners and operators of a CAIR SO<sub>2</sub> source or a CAIR SO<sub>2</sub> unit, including the addition of a new owner or operator, the CAIR designated representative or any alternate CAIR designated representative shall submit a revision to the certificate of representation under subsection (h) amending the list of owners and operators to include the change.

(h) A complete certificate of representation for a CAIR designated representative or an alternate CAIR designated representative shall include the following elements in a format prescribed by the U.S. EPA:

- (1) Identification of the CAIR SO<sub>2</sub> source, and each CAIR SO<sub>2</sub> unit at the source, for which the certificate of representation is submitted, including identification and nameplate capacity of each generator served by each such unit.
- (2) The name, address, e-mail address, if any, telephone number, and facsimile transmission number, if any, of the CAIR designated representative and any alternate CAIR designated representative.
- (3) A list of the owners and operators of the CAIR SO<sub>2</sub> source and of each CAIR SO<sub>2</sub> unit at the source.
- (4) The following certification statements by the CAIR designated representative and any alternate CAIR designated representative: "I certify that I was selected as the CAIR designated representative or alternate CAIR designated representative, as applicable, by an agreement binding on the owners and operators of the source and each CAIR SO<sub>2</sub> unit at the source. I certify that I have all the necessary authority to carry out my duties and responsibilities under the CAIR SO<sub>2</sub> trading program on behalf of the owners and operators of the source and of each CAIR SO<sub>2</sub> unit at the source and that each such owner and operator shall be fully bound by my representations, actions, inactions, or submissions. I certify that the owners and operators of the source and of each CAIR SO<sub>2</sub> unit at the source shall be bound by any order issued to me by the U.S. EPA, the department, or a court regarding the source or unit. Where there are multiple holders of a legal or equitable title to, or a leasehold interest in, a CAIR SO<sub>2</sub> unit, or where a utility or industrial customer purchases power from a CAIR SO<sub>2</sub> unit under a life-of-the-unit, firm power contractual arrangement, I certify that: I have given a written notice of my selection as the 'CAIR designated representative' or 'alternate CAIR designated representative', as applicable, and of the agreement by which I was selected to each owner and operator of the source and of each CAIR SO<sub>2</sub> unit at the source; and CAIR SO<sub>2</sub> allowances and proceeds of transactions involving CAIR SO<sub>2</sub> allowances will be deemed to be held or distributed in proportion to each holder's legal, equitable, leasehold, or contractual reservation or entitlement, except that, if such multiple holders have expressly provided for a different distribution of CAIR SO<sub>2</sub> allowances by contract, CAIR SO<sub>2</sub> allowances and proceeds of transactions involving CAIR SO<sub>2</sub> allowances will be deemed to be held or distributed in accordance with the contract."
- (5) The signature of the CAIR designated representative and any alternate CAIR designated representative and the dates signed.

Unless otherwise required by the department or the U.S. EPA, documents of agreement referred to in the certificate of representation shall not be submitted to the department or the U.S. EPA. Neither the department nor the U.S. EPA shall be under any obligation to review or evaluate the sufficiency of such documents, if submitted.

(i) The following shall apply to objections concerning CAIR designated representatives:

- (1) Once a complete certificate of representation under subsection (h) has been submitted and received, the department and the U.S. EPA will rely on the certificate of representation unless and until a superseding complete certificate of representation under subsection (h) is received by the U.S. EPA.
- (2) Except as provided in subsection (g)(1) and (g)(2), no objection or other communication submitted to the department or the U.S. EPA concerning the authorization, or any representation, action, inaction, or submission, of the CAIR designated representative shall affect any representation, action, inaction, or submission of the CAIR designated representative or the finality of any decision or order by the department or the U.S. EPA under the CAIR SO<sub>2</sub> trading program.
- (3) Neither the department nor the U.S. EPA will adjudicate any private legal dispute concerning the authorization or any representation, action, inaction, or submission of any CAIR designated representative, including private legal disputes concerning the proceeds of CAIR SO<sub>2</sub> allowance transfers.

(j) The following shall apply to delegation by CAIR designated representative and alternate CAIR designated representative:

- (1) A CAIR designated representative may delegate, to one (1) or more natural persons, his or her authority to make an electronic submission to the U.S. EPA provided for or required under this article.
- (2) An alternate CAIR designated representative may delegate, to one (1) or more natural persons, his or her authority to make an electronic submission to the U.S. EPA provided for or required under this article.
- (3) In order to delegate authority to make an electronic submission to the U.S. EPA in accordance with subdivision (1) or (2), the CAIR designated representative or alternate CAIR designated representative, as appropriate, must submit to the U.S. EPA a notice of delegation, in a format prescribed by the U.S. EPA, that includes the following elements:

(A) The name, address, e-mail address, telephone number, and facsimile transmission number, if any, of the following:

- (i) The CAIR designated representative or alternate CAIR designated representative.
- (ii) The natural person, referred to as an "agent".

(B) For each such natural person, a list of the type or types of electronic submissions under subdivision (1) or (2) for which authority is delegated to him or her.

(C) The following certification statements by such CAIR designated representative or alternate CAIR designated representative:

- (i) "I agree that any electronic submission to the U.S. EPA that is by an agent identified in this notice of delegation and of a type listed for such agent in this notice of delegation and that is made when I am a CAIR designated representative or alternate CAIR designated representative, as appropriate, and before this notice of delegation is superseded by another notice of delegation under [326 IAC 24-2-6\(j\)\(4\)](#) shall be deemed to be an electronic submission by me."
- (ii) "Until this notice of delegation is superseded by another notice of delegation under [326 IAC 24-2-6\(j\)\(4\)](#), I agree to maintain an e-mail account and to notify the U.S. EPA immediately of any change in my e-mail address unless all delegation of authority by me under [326 IAC 24-2-6\(j\)](#) is terminated."

(4) A notice of delegation submitted under subdivision (3) shall be effective, with regard to the CAIR designated representative or alternate CAIR designated representative identified in such notice, upon receipt of such notice by the U.S. EPA and until receipt by the U.S. EPA of a superseding notice of delegation submitted by such CAIR designated representative or alternate CAIR designated representative, as appropriate. The superseding notice of delegation may replace any previously identified agent, add a new agent, or eliminate entirely any delegation of authority.

(5) Any electronic submission covered by the certification in subdivision (3)(C)(i) and made in accordance with a notice of delegation effective under subdivision (4) shall be deemed to be an electronic submission by the CAIR designated representative or alternate CAIR designated representative submitting such notice of delegation.

(Air Pollution Control Board; [326 IAC 24-2-6](#))

### [326 IAC 24-2-7](#) Permit requirements

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 7. (a) For each CAIR SO<sub>2</sub> source required to have a federally enforceable permit, the permit shall include a CAIR permit administered by the department as follows:

(1) The CAIR portion of the Part 70 permit under [326 IAC 2-7](#) shall be administered in accordance with [326 IAC 2-7](#), except as provided otherwise by this section or sections 3 and 11 of this rule.

(2) Each CAIR permit, including a draft or proposed CAIR permit, if applicable, shall contain, with regard to the CAIR SO<sub>2</sub> source and the CAIR SO<sub>2</sub> units at the source covered by the CAIR permit, all applicable CAIR SO<sub>2</sub> trading program, CAIR NO<sub>x</sub> annual trading program, and CAIR NO<sub>x</sub> ozone season trading program requirements and shall be a complete and separable portion of the Part 70 operating permit.

(b) Requirements for the submission of CAIR permit applications are as follows:

(1) The CAIR designated representative of any CAIR SO<sub>2</sub> source required to have a Part 70 operating permit shall submit to the department a complete CAIR permit application under subsection (c) for the source covering each CAIR SO<sub>2</sub> unit at the source at least two hundred seventy (270) days before the later of January 1, 2010, or the date on which the CAIR SO<sub>2</sub> unit commences commercial operation, except as provided in section 11(e) of this rule.

(2) For a CAIR SO<sub>2</sub> source required to have a Part 70 operating permit, the CAIR designated representative shall submit a complete CAIR permit application under subsection (c) for the source covering each CAIR SO<sub>2</sub> unit at the source to renew the CAIR permit in accordance with [326 IAC 2-7-4\(a\)\(1\)\(D\)](#), as applicable, except as provided in section 11(e) of this rule.

(c) In addition to the requirements of [326 IAC 2-7-4\(c\)](#), a complete CAIR permit application shall include the following elements concerning the CAIR SO<sub>2</sub> source for which the application is submitted:

(1) Identification of the CAIR SO<sub>2</sub> source.

- (2) Identification of each CAIR SO<sub>2</sub> unit at the CAIR SO<sub>2</sub> source.
- (3) The standard requirements under section 4 of this rule.

(d) In addition to the requirements under [326 IAC 2-7](#), each CAIR permit shall contain, in a format prescribed by the department, all elements required for a complete CAIR permit application under subsection (c).

(e) Each CAIR permit is deemed to incorporate automatically the definitions of terms under section 2 of this rule and, upon recordation by the U.S. EPA, under section 8, 9, or 11 of this rule, every allocation, transfer, or deduction of a CAIR SO<sub>2</sub> allowance to or from the compliance account of the CAIR SO<sub>2</sub> source covered by the permit.

(f) The initial CAIR permit covering a CAIR unit for which a complete CAIR permit application is timely submitted under subsection (b) shall become effective upon issuance.

(g) The term of the CAIR permit shall be set by the department, as necessary to facilitate coordination of the renewal of the CAIR permit with issuance, revision, or renewal of the CAIR SO<sub>2</sub> source's Part 70 operating permit.

(h) Except as provided in subsection (e), the department shall revise the CAIR permit, as necessary, in accordance with the permit modification and revision provisions under [326 IAC 2-7](#).

(Air Pollution Control Board; [326 IAC 24-2-7](#))

#### [326 IAC 24-2-8](#) CAIR SO<sub>2</sub> allowance tracking system

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 8. (a) Except as provided in section 11(f)(7) of this rule, upon receipt of a complete certificate of representation under section 6(h) of this rule, the U.S. EPA will establish a compliance account for the CAIR SO<sub>2</sub> source for which the certificate of representation was submitted unless the source already has a compliance account.

(b) Any person may apply to open a general account for the purpose of holding and transferring CAIR SO<sub>2</sub> allowances. An application for a general account may designate one (1) and only one (1) CAIR authorized account representative and one (1) and only one (1) alternate CAIR authorized account representative who may act on behalf of the CAIR authorized account representative. The agreement by which the alternate CAIR authorized account representative is selected shall include a procedure for authorizing the alternate CAIR authorized account representative to act in lieu of the CAIR authorized account representative. The establishment of the general account shall be subject to the following:

(1) A complete application for a general account shall be submitted to the U.S. EPA and shall include the following elements in a format prescribed by the U.S. EPA:

(A) The following information concerning the CAIR authorized account representative and any alternate CAIR authorized account representative:

(i) Name.

(ii) Mailing address.

(iii) E-mail address, if any.

(iv) Telephone number.

(v) Facsimile transmission number, if any.

(B) Organization name and type of organization, if applicable.

(C) A list of all persons subject to a binding agreement for the CAIR authorized account representative and any alternate CAIR authorized account representative to represent their ownership interest with respect to the CAIR SO<sub>2</sub> allowances held in the general account.

(D) The following certification statement by the CAIR authorized account representative and any alternate CAIR authorized account representative: "I certify that I was selected as the CAIR authorized account representative or the alternate CAIR authorized account representative, as



applicable, by an agreement that is binding on all persons who have an ownership interest with respect to CAIR SO<sub>2</sub> allowances held in the general account. I certify that I have all the necessary authority to carry out my duties and responsibilities under the CAIR SO<sub>2</sub> trading program on behalf of such persons and that each such person shall be fully bound by my representations, actions, inactions, or submissions and by any order or decision issued to me by the U.S. EPA or a court regarding the general account."

(E) The signature of the CAIR authorized account representative and any alternate CAIR authorized account representative and the dates signed.

(F) Unless otherwise required by the department or the U.S. EPA, documents of agreement referred to in the application for a general account shall not be submitted to the department or the U.S. EPA. Neither the department nor the U.S. EPA shall be under any obligation to review or evaluate the sufficiency of such documents, if submitted.

(2) Upon receipt by the U.S. EPA of a complete application for a general account under subdivision (1), the following shall apply:

(A) The U.S. EPA will establish a general account for the person or persons for whom the application is submitted.

(B) The CAIR authorized account representative and any alternate CAIR authorized account representative for the general account shall represent and, by his or her representations, actions, inactions, or submissions, legally bind each person who has an ownership interest with respect to CAIR SO<sub>2</sub> allowances held in the general account in all matters pertaining to the CAIR SO<sub>2</sub> trading program, notwithstanding any agreement between the CAIR authorized account representative or any alternate CAIR authorized account representative and such person. Any such person shall be bound by any order or decision issued to the CAIR authorized account representative or any alternate CAIR authorized account representative by the U.S. EPA or a court regarding the general account.

(C) Any representation, action, inaction, or submission by any alternate CAIR authorized account representative shall be deemed to be a representation, action, inaction, or submission by the CAIR authorized account representative.

(D) Each submission concerning the general account shall be submitted, signed, and certified by the CAIR authorized account representative or any alternate CAIR authorized account representative for the persons having an ownership interest with respect to CAIR SO<sub>2</sub> allowances held in the general account. Each such submission shall include the following certification statement by the CAIR authorized account representative or any alternate CAIR authorized account representative: "I am authorized to make this submission on behalf of the persons having an ownership interest with respect to the CAIR SO<sub>2</sub> allowances held in the general account. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment."

(E) The U.S. EPA will accept or act on a submission concerning the general account only if the submission has been made, signed, and certified in accordance with clause (D).

(3) The following shall apply to changing the CAIR authorized account representative or alternate CAIR authorized account representative, and changes in persons with ownership interest:

(A) The CAIR authorized account representative for a general account may be changed at any time upon receipt by the U.S. EPA of a superseding complete application for a general account under subdivision (1). Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous CAIR authorized account representative before the time and date when the U.S. EPA receives the superseding application for a general account shall be binding on the new CAIR authorized account representative and the persons with an ownership interest with respect to the CAIR SO<sub>2</sub> allowances in the general account.

(B) The alternate CAIR authorized account representative for a general account may be changed at any time upon receipt by the U.S. EPA of a superseding complete application for a general account under subdivision (1). Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous alternate CAIR authorized account representative before the time and date when the U.S. EPA receives the superseding application for a general account shall be binding on the new alternate CAIR authorized account representative and the persons with an ownership interest with respect to the CAIR SO<sub>2</sub> allowances in the general account.

(C) In the event a person having an ownership interest with respect to CAIR SO<sub>2</sub> allowances in the general account is not included in the list of such persons in the application for a general account,

such person shall be deemed to be subject to and bound by the application for a general account, the representation, actions, inactions, and submissions of the CAIR authorized account representative and any alternate CAIR authorized account representative of the account, and the decisions and orders of the U.S. EPA or a court, as if the person were included in such list.

(D) Within thirty (30) days following any change in the persons having an ownership interest with respect to CAIR SO<sub>2</sub> allowances in the general account, including the addition of a new person, the CAIR authorized account representative or any alternate CAIR authorized account representative shall submit a revision to the application for a general account amending the list of persons having an ownership interest with respect to the CAIR SO<sub>2</sub> allowances in the general account to include the change.

(4) Once a complete application for a general account under subdivision (1) has been submitted and received, the U.S. EPA will rely on the application unless and until a superseding complete application for a general account under subdivision (1) is received by the U.S. EPA.

(5) Except as provided in subdivision (3)(A) or (3)(B), no objection or other communication submitted to the U.S. EPA concerning the authorization, or any representation, action, inaction, or submission of the CAIR authorized account representative or any alternate CAIR authorized account representative for a general account shall affect any representation, action, inaction, or submission of the CAIR authorized account representative or any alternate CAIR authorized account representative or the finality of any decision or order by the U.S. EPA under the CAIR SO<sub>2</sub> trading program.

(6) The U.S. EPA will not adjudicate any private legal dispute concerning the authorization or any representation, action, inaction, or submission of the CAIR authorized account representative or any alternative CAIR authorized account representative for a general account, including private legal disputes concerning the proceeds of CAIR SO<sub>2</sub> allowance transfers.

(c) The U.S. EPA will assign a unique identifying number to each account established under subsection (a) or (b).

(d) Following the establishment of a CAIR SO<sub>2</sub> allowance tracking system account, all submissions to the U.S. EPA pertaining to the account, including, but not limited to, submissions concerning the deduction or transfer of CAIR SO<sub>2</sub> allowances in the account, shall be made only by the CAIR authorized account representative for the account.

(e) After a compliance account is established under subsection (a) or 40 CFR 73.31(a) or 40 CFR 73.31(b)\*, the U.S. EPA will record in the compliance account any CAIR SO<sub>2</sub> allowance allocated to any CAIR SO<sub>2</sub> unit at the source for each of the thirty (30) years starting the later of 2010 or the year in which the compliance account is established and any CAIR SO<sub>2</sub> allowance allocated for each of the thirty (30) years starting the later of 2010 or the year in which the compliance account is established and transferred to the source in accordance with section 9 of this rule or 40 CFR 73, Subpart D\*.

(f) In 2011 and each year thereafter, after U.S. EPA has completed all deductions under subsection (k)(1), the U.S. EPA will record in the compliance account any CAIR SO<sub>2</sub> allowance allocated to any CAIR SO<sub>2</sub> unit at the source for the new thirtieth year, that is, the year that is thirty (30) years after the calendar year for which such deductions are or could be made, and any CAIR SO<sub>2</sub> allowance allocated for the new thirtieth year and transferred to the source in accordance with section 9 of this rule or 40 CFR 73, Subpart D\*.

(g) After a general account is established under subsection (b) or 40 CFR 73.31(c)\*, the U.S. EPA will record in the general account any CAIR SO<sub>2</sub> allowance allocated for each of the thirty (30) years starting the later of 2010 or the year in which the general account is established and transferred to the general account in accordance with section 9 of this rule or 40 CFR 73, Subpart D\*.

(h) In 2011 and each year thereafter, after U.S. EPA has completed all deductions under subsection (k)(1), the U.S. EPA will record in the general account any CAIR SO<sub>2</sub> allowance allocated for the new thirtieth year, that is, the year that is thirty (30) years after the calendar year for which such deductions are or could be made, and transferred to the general account in accordance with section 9 of this rule or 40 CFR 73, Subpart D\*.

(i) When recording the allocation of CAIR SO<sub>2</sub> allowances for a CAIR SO<sub>2</sub> unit in a compliance account,

the U.S. EPA will assign each CAIR SO<sub>2</sub> allowance a unique identification number that shall include digits identifying the year of the control period for which the CAIR SO<sub>2</sub> allowance is allocated.

(j) The CAIR SO<sub>2</sub> allowances are available to be deducted for compliance with a source's CAIR SO<sub>2</sub> emissions limitation for a control period in a given calendar year only if the CAIR SO<sub>2</sub> allowances:

- (1) were allocated for the control period in the year or a prior year; and
- (2) are held in the compliance account as of the allowance transfer deadline for the control period or are transferred into the compliance account by a CAIR SO<sub>2</sub> allowance transfer correctly submitted for recordation under section 9(a) through 9(f) of this rule by the allowance transfer deadline for the control period.

(k) The following shall apply to deductions for purposes of compliance with a source's emissions limitation:

(1) Following the recordation, in accordance with section 9(d) through 9(f) of this rule, of CAIR SO<sub>2</sub> allowance transfers submitted for recordation in a source's compliance account by the allowance transfer deadline for a control period, the U.S. EPA will deduct from the compliance account CAIR SO<sub>2</sub> allowances available under subsection (j) in order to determine whether the source meets the CAIR SO<sub>2</sub> emissions limitation for the control period, as follows:

(A) For a CAIR SO<sub>2</sub> source subject to an acid rain emissions limitation, the U.S. EPA will, in the following order:

- (i) Deduct the amount of CAIR SO<sub>2</sub> allowances, and not issued by the department under section 11(j) of this rule, that is required under 40 CFR 73.35(b)\* and 40 CFR 73.35(c)\*. If there are sufficient CAIR SO<sub>2</sub> allowances to complete this deduction, the deduction shall be treated as satisfying the requirements of 40 CFR 73.35(b)\* and 40 CFR 73.35(c)\*.
- (ii) Deduct the amount of CAIR SO<sub>2</sub> allowances, available under subsection (j) and not issued by the department under section 11(j) of this rule, that is required under 40 CFR 73.35(d)\* and 40 CFR 77.5\*. If there are sufficient CAIR SO<sub>2</sub> allowances to complete this deduction, the deduction shall be treated as satisfying the requirements of 40 CFR 73.35(d)\* and 40 CFR 77.5\*.
- (iii) Treating the CAIR SO<sub>2</sub> allowances deducted under item (ii) as also being deducted under this item, deduct CAIR SO<sub>2</sub> allowances available under subsection (j), including any issued by the department under section 11(j) of this rule, in order to determine whether the source meets the CAIR SO<sub>2</sub> emissions limitation for the control period, as follows:

(AA) until the tonnage equivalent of the CAIR SO<sub>2</sub> allowances deducted equals, or exceeds in accordance with subdivisions (2) and (3), the number of tons of total sulfur dioxide emissions, determined in accordance with section 10 of this rule, from all CAIR SO<sub>2</sub> units at the source for the control period; or

(BB) if there are insufficient CAIR SO<sub>2</sub> allowances to complete the deductions in subitem (AA), until no more CAIR SO<sub>2</sub> allowances available under subsection (j), including any issued by the department under section 11(j) of this rule, remain in the compliance account.

(B) For a CAIR SO<sub>2</sub> source not subject to an acid rain emissions limitation, the U.S. EPA will deduct CAIR SO<sub>2</sub> allowances available under subsection (j), including any issued by the department under section 11(j) of this rule, in order to determine whether the source meets the CAIR SO<sub>2</sub> emissions limitation for the control period, as follows:

- (i) until the tonnage equivalent of the CAIR SO<sub>2</sub> allowances deducted equals, or exceeds in accordance with subdivisions (2) and (3), the number of tons of total sulfur dioxide emissions, determined in accordance with section 10 of this rule, from all CAIR SO<sub>2</sub> units at the source for the control period; or
- (ii) if there are insufficient CAIR SO<sub>2</sub> allowances to complete the deductions in item (i), until no more CAIR SO<sub>2</sub> allowances available under subsection (j), including any issued by the department under section 11(j) of this rule, remain in the compliance account.

(2) The CAIR authorized account representative for a source's compliance account may request that specific CAIR SO<sub>2</sub> allowances, identified by serial number, in the compliance account be deducted for emissions or excess emissions for a control period in accordance with subdivision (1), (4), or (5). Such request shall be submitted to the U.S. EPA by the allowance transfer deadline for the control period and include, in a format prescribed by the U.S. EPA, the identification of the CAIR SO<sub>2</sub> source and the appropriate serial numbers.

(3) The U.S. EPA will deduct CAIR SO<sub>2</sub> allowances under subdivision (1), (4), or (5) from the source's compliance account, in the absence of an identification or in the case of a partial identification of CAIR SO<sub>2</sub> allowances by serial number under subdivision (2), on a first-in, first-out (FIFO) accounting basis in the following order:

(A) Any CAIR SO<sub>2</sub> allowances that were allocated to the units at the source for a control period before 2010, in the order of recordation.

(B) Any CAIR SO<sub>2</sub> allowances that were allocated to any entity for a control period before 2010 and transferred and recorded in the compliance account under section 9 of this rule or 40 CFR 73, Subpart D\*, in the order of recordation.

(C) Any CAIR SO<sub>2</sub> allowances that were allocated to the units at the source for a control period during 2010 through 2014, in the order of recordation.

(D) Any CAIR SO<sub>2</sub> allowances that were allocated to any entity for a control period during 2010 through 2014 and transferred and recorded in the compliance account under section 9 of this rule or 40 CFR 73, Subpart D\*, in the order of recordation.

(E) Any CAIR SO<sub>2</sub> allowances that were allocated to the units at the source for a control period in 2015 or later, in the order of recordation.

(F) Any CAIR SO<sub>2</sub> allowances that were allocated to any entity for a control period in 2015 or later and transferred and recorded in the compliance account under section 9 of this rule or 40 CFR 73, Subpart D\*, in the order of recordation.

(4) After making the deductions for compliance under subdivision (1) for a control period in a calendar year in which the CAIR SO<sub>2</sub> source has excess emissions, the U.S. EPA will deduct from the source's compliance account the tonnage equivalent in CAIR SO<sub>2</sub> allowances, allocated for the control period in the immediately following calendar year, including any issued by the department under section 11(j) of this rule, equal to, or exceeding in accordance with subdivisions (2) and (3), three (3) times the number of tons of the source's excess emissions minus, if the source is subject to an acid rain emission limitation, the amount of the CAIR SO<sub>2</sub> allowances required to be deducted under subdivision (1)(A)(ii).

(5) Any allowance deduction required under subdivision (4) shall not affect the liability of the owners and operators of the CAIR SO<sub>2</sub> source or the CAIR SO<sub>2</sub> units at the source for any fine, penalty, or assessment, or their obligation to comply with any other remedy, for the same violations, as ordered under the Clean Air Act or applicable state law.

(6) The U.S. EPA will record in the appropriate compliance account all deductions from such an account under subdivisions (1), (4), and (5) and section 11 of this rule.

(7) The U.S. EPA may review and conduct independent audits concerning any submission under the CAIR SO<sub>2</sub> trading program and make appropriate adjustments of the information in the submissions.

(8) The U.S. EPA may deduct CAIR SO<sub>2</sub> allowances from or transfer CAIR SO<sub>2</sub> allowances to a source's compliance account based on the information in the submissions, as adjusted under subdivision (7), and record such deductions and transfers.

(l) CAIR SO<sub>2</sub> allowances may be banked for future use or transfer in a compliance account or a general account. Any CAIR SO<sub>2</sub> allowance that is held in a compliance account or a general account shall remain in such account unless and until the CAIR SO<sub>2</sub> allowance is deducted or transferred under subsection (j), (k), or (m) or section 9 or 11 of this rule.

(m) The U.S. EPA may, at his or her sole discretion and on his or her own motion, correct any error in any CAIR SO<sub>2</sub> allowance tracking system account. Within ten (10) business days of making such correction, the U.S. EPA will notify the CAIR authorized account representative for the account.

(n) The CAIR authorized account representative of a general account may submit to the U.S. EPA a request to close the account, which shall include a correctly submitted allowance transfer under section 9(a) through 9(f) of this rule for any CAIR SO<sub>2</sub> allowances in the account to one (1) or more other CAIR SO<sub>2</sub> allowance tracking system accounts.

(o) If a general account has no allowance transfers in or out of the account for a twelve (12) month period or longer and does not contain any CAIR SO<sub>2</sub> allowances, the U.S. EPA may notify the CAIR authorized account representative for the account that the account shall be closed following twenty (20) business days after the notice is sent. The account will be closed after the twenty (20) day period unless, before the end of the twenty (20) day period, the U.S. EPA receives a correctly submitted transfer of CAIR SO<sub>2</sub> allowances into the account under section 9(a) through 9(f) of this rule or a statement submitted by the CAIR authorized account representative demonstrating to the satisfaction of the U.S. EPA good cause as to why the account should not be closed.

\*These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and

copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.

(Air Pollution Control Board; [326 IAC 24-2-8](#))

### **[326 IAC 24-2-9](#) CAIR SO<sub>2</sub> allowance transfers**

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 9. (a) A CAIR authorized account representative seeking recordation of a CAIR SO<sub>2</sub> allowance transfer shall submit the transfer to the U.S. EPA. To be considered correctly submitted, the CAIR SO<sub>2</sub> allowance transfer shall include the following elements, in a format specified by the U.S. EPA:

- (1) the account numbers for both the transferor and transferee accounts;
- (2) the serial number of each CAIR SO<sub>2</sub> allowance that is in the transferor account and is to be transferred; and
- (3) the name and signature of the CAIR authorized account representative of the transferor account and the date signed.

(b) The CAIR authorized account representative for the transferee account shall meet the requirements in subsection (a)(3) by submitting, in a format prescribed by the U.S. EPA, a statement signed by the CAIR authorized account representative and identifying each account into which any transfer of allowances, submitted on or after the date on which the U.S. EPA receives such statement, is authorized. Such authorization shall be binding on any CAIR authorized account representative for such account and shall apply to all transfers into the account that are submitted on or after such date of receipt, unless and until the U.S. EPA receives a statement signed by the CAIR authorized account representative retracting the authorization for the account.

(c) The statement under subsection (b) shall include the following: "By this signature I authorize any transfer of allowances into each account listed herein, except that I do not waive any remedies under state or federal law to obtain correction of any erroneous transfers into such accounts. This authorization shall be binding on any CAIR authorized account representative for such account unless and until a statement signed by the CAIR authorized account representative retracting this authorization for the account is received by the U.S. EPA."

(d) Within five (5) business days, except as provided in subsection (e), of receiving a CAIR SO<sub>2</sub> allowance transfer, the U.S. EPA will record a CAIR SO<sub>2</sub> allowance transfer by moving each CAIR SO<sub>2</sub> allowance from the transferor account to the transferee account as specified by the request, provided the following:

- (1) The transfer is correctly submitted under this section.
- (2) The transferor account includes each CAIR SO<sub>2</sub> allowance identified by serial number in the transfer.
- (3) The transfer is in accordance with the limitation on transfer under 40 CFR 74.42\* and 40 CFR 74.47\*, as applicable.

(e) A CAIR SO<sub>2</sub> allowance transfer that is submitted for recordation after the allowance transfer deadline for a control period and that includes any CAIR SO<sub>2</sub> allowances allocated for any control period before such allowance transfer deadline will not be recorded until after the U.S. EPA completes the deductions under subsections (j) and (k) for the control period immediately before such allowance transfer deadline.

(f) Where a CAIR SO<sub>2</sub> allowance transfer submitted for recordation fails to meet the requirements of subsection (d), the U.S. EPA will not record such transfer.

(g) The following notification requirements shall apply to CAIR SO<sub>2</sub> allowance transfers:

- (1) Within five (5) business days of recordation of a CAIR SO<sub>2</sub> allowance transfer under subsections (d) through (f) the U.S. EPA will notify the CAIR authorized account representatives of both the

transferor and transferee accounts.

(2) Within ten (10) business days of receipt of a CAIR SO<sub>2</sub> allowance transfer that fails to meet the requirements of subsection (d), the U.S. EPA will notify the CAIR authorized account representatives of both accounts subject to the transfer of the decision not to record the transfer and the reasons for such nonrecording.

(h) Nothing in this section shall preclude the submission of a CAIR SO<sub>2</sub> allowance transfer for recording following notification of nonrecording.

\*These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.

(Air Pollution Control Board; [326 IAC 24-2-9](#))

### [326 IAC 24-2-10](#) SO<sub>2</sub> Monitoring and reporting requirements

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 10. (a) The owners and operators, and to the extent applicable, the CAIR designated representative, of a CAIR SO<sub>2</sub> unit, shall comply with the monitoring, record keeping, and reporting requirements as provided in this rule and in 40 CFR 75, Subparts F and G\*. For purposes of complying with such requirements, the definitions in section 2 of this rule and 40 CFR 72.2\* shall apply, and the terms affected unit, designated representative, and continuous emission monitoring system (CEMS) in 40 CFR 75\* shall be replaced by the terms CAIR SO<sub>2</sub> unit, CAIR designated representative, and continuous emission monitoring system (CEMS) respectively, as defined in section 2 of this rule. The owner or operator of a unit that is not a CAIR SO<sub>2</sub> unit but that is monitored under 40 CFR 75.16(b)(2)\* shall comply with the same monitoring, record keeping, and reporting requirements as a CAIR SO<sub>2</sub> unit.

(b) The owner or operator of each CAIR SO<sub>2</sub> unit shall do the following:

(1) Install all monitoring systems required under this section for monitoring SO<sub>2</sub> mass emissions and individual unit heat input. This includes all systems required to monitor SO<sub>2</sub> concentration, stack gas moisture content, stack gas flow rate, CO<sub>2</sub> or O<sub>2</sub> concentration, and fuel flow rate, as applicable, in accordance with 40 CFR 75.11\* and 40 CFR 75.16\*.

(2) Successfully complete all certification tests required under subsections (f) through (j) and meet all other requirements of this section and 40 CFR 75\* applicable to the monitoring systems under subdivision (1).

(3) Record, report, and quality-assure the data from the monitoring systems under subdivision (1).

(c) Except as provided in subsection (p), the owner or operator shall meet the monitoring system certification and other requirements of subsection (b)(1) and (b)(2) on or before the following dates. The owner or operator shall record, report, and quality-assure the data from the monitoring systems under subsection (b)(1) on and after the following dates:

(1) For the owner or operator of a CAIR SO<sub>2</sub> unit that commences commercial operation before July 1, 2008, by January 1, 2009.

(2) For the owner or operator of a CAIR SO<sub>2</sub> unit that commences commercial operation on or after July 1, 2008, by the later of the following dates:

(A) January 1, 2009.

(B) The earlier of:

(i) one hundred eighty (180) calendar days after the date on which the unit commences commercial operation; or

(ii) ninety (90) unit operating days after the date on which the unit commences commercial operation.

(3) For the owner or operator of a CAIR SO<sub>2</sub> unit for which construction of a new stack or flue or installation of add-on SO<sub>2</sub> emission controls is completed after the applicable deadline under subdivision (1), (2), (4), or (5), compliance by the earlier of:



(A) one hundred eighty (180) calendar days after the date on which emissions first exit to the atmosphere through the new stack or flue or add-on SO<sub>2</sub> emissions controls; or

(B) ninety (90) unit operating days after the date on which emissions first exit to the atmosphere through the new stack or flue or add-on SO<sub>2</sub> emissions controls.

(4) Notwithstanding the dates in subdivisions (1) and (2), for the owner or operator of a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under section 11 of this rule, by the date specified in section 11(f)(2) through 11(f)(4) of this rule.

(5) Notwithstanding the dates in subdivisions (1) and (2), for the owner or operator of a CAIR SO<sub>2</sub> opt-in unit under section 11 of this rule, by the date on which the CAIR SO<sub>2</sub> opt-in unit enters the CAIR SO<sub>2</sub> trading program as provided in section 11(f)(9) of this rule.

(d) The owner or operator of a CAIR SO<sub>2</sub> unit that does not meet the applicable compliance date set forth in subsection (c) for any monitoring system under subsection (b)(1) shall, for each such monitoring system, determine, record, and report maximum potential or, as appropriate, minimum potential, values for SO<sub>2</sub> concentration, stack gas flow rate, stack gas moisture content, fuel flow rate, and any other parameters required to determine SO<sub>2</sub> mass emissions and heat input in accordance with 40 CFR 75.31(b)(2), 40 CFR 75.31(c)(3)\*, or 40 CFR 75, Appendix D, Section 2.4\*, as applicable.

(e) The following shall apply to any monitoring system, alternative monitoring system, alternative reference method, or any other alternative for a CEMS required under this rule:

(1) No owner or operator of a CAIR SO<sub>2</sub> unit shall use any alternative monitoring system, alternative reference method, or any other alternative to any requirement of this section without having obtained prior written approval in accordance with subsection (o).

(2) No owner or operator of a CAIR SO<sub>2</sub> unit shall operate the unit so as to discharge, or allow to be discharged, SO<sub>2</sub> emissions to the atmosphere without accounting for all such emissions in accordance with the applicable provisions of this section and 40 CFR 75\*.

(3) No owner or operator of a CAIR SO<sub>2</sub> unit shall disrupt the continuous emission monitoring system, any portion thereof, or any other approved emission monitoring method, and thereby avoid monitoring and recording SO<sub>2</sub> mass emissions discharged into the atmosphere or heat input, except for periods of recertification or periods when calibration, quality assurance testing, or maintenance is performed in accordance with the applicable provisions of this section and 40 CFR 75\*.

(4) No owner or operator of a CAIR SO<sub>2</sub> unit shall retire or permanently discontinue use of the continuous emission monitoring system, any component thereof, or any other approved monitoring system under this section, except under any one (1) of the following circumstances:

(A) During the period that the unit is covered by an exemption under section 3 of this rule.

(B) The owner or operator is monitoring emissions from the unit with another certified monitoring system approved, in accordance with the applicable provisions of this section and 40 CFR 75\*, by the department for use at that unit that provides emission data for the same pollutant or parameter as the retired or discontinued monitoring system.

(C) The CAIR designated representative submits notification of the date of certification testing of a replacement monitoring system for the retired or discontinued monitoring system in accordance with subsection (h)(3)(A).

(f) The owner or operator of a CAIR SO<sub>2</sub> unit shall be exempt from the initial certification requirements of this subsection and subsections (g) through (j) for a monitoring system under subsection (b)(1) if the following conditions are met:

(1) The monitoring system has been previously certified in accordance with 40 CFR 75\*.

(2) The applicable quality-assurance and quality-control requirements of 40 CFR 75.21\*, 40 CFR 75, Appendix B\*, and 40 CFR 75, Appendix D\* are fully met for the certified monitoring system described in subdivision (1).

The recertification provisions of this subsection and subsections (g) through (j) shall apply to a monitoring system under subsection (b)(1) exempt from initial certification requirements under this subsection.

(g) Reserved.

(h) Except as provided in subsection (f), the owner or operator of a CAIR SO<sub>2</sub> unit shall comply with the following initial certification and recertification procedures for a continuous monitoring system (that

is, a continuous emission monitoring system and an excepted monitoring system under 40 CFR 75, Appendix D\*) under subsection (b)(1). The owner or operator of a unit that qualifies to use the low mass emissions excepted monitoring methodology under 40 CFR 75.19\* or that qualifies to use an alternative monitoring system under 40 CFR 75, Subpart E\* shall comply with the procedures in subsection (i) or (j) respectively:

(1) The owner or operator shall ensure that each continuous monitoring system under subsection (b)(1), including the automated data acquisition and handling system, successfully completes all of the initial certification testing required under 40 CFR 75.20\* by the applicable deadline in subsection (c). In addition, whenever the owner or operator installs a monitoring system to meet the requirements of this section in a location where no such monitoring system was previously installed, initial certification in accordance with 40 CFR 75.20\* is required.

(2) Whenever the owner or operator makes a replacement, modification, or change in any certified continuous emission monitoring system under subsection (b)(1) that may significantly affect the ability of the system to accurately measure or record SO<sub>2</sub> mass emissions or heat input rate or to meet the quality-assurance and quality-control requirements of 40 CFR 75.21\* or 40 CFR 75, Appendix B\*, the owner or operator shall recertify the monitoring system in accordance with 40 CFR 75.20(b)\*. Furthermore, whenever the owner or operator makes a replacement, modification, or change to the flue gas handling system or the unit's operation that may significantly change the stack flow or concentration profile, the owner or operator shall recertify each continuous emission monitoring system whose accuracy is potentially affected by the change, in accordance with 40 CFR 75.20(b)\*. Examples of changes to a continuous emission monitoring system that require recertification include replacement of the analyzer, complete replacement of an existing continuous emission monitoring system, or change in location or orientation of the sampling probe or site. Any fuel flowmeter system under subsection (b)(1) is subject to the recertification requirements in 40 CFR 75.20(g)(6)\*.

(3) Clauses (A) through (D) apply to both initial certification and recertification of a continuous monitoring system under subsection (b)(1). For recertifications, replace the words "certification" and "initial certification" with the word "recertification," replace the word certified with the word "recertified," and follow the procedures in 40 CFR 75.20(b)(5)\* and 40 CFR 75.20(g)(7)\* in lieu of the procedures in clause (E). Requirements for the certification approval process for initial certification and recertification, and loss of certification are as follows:

(A) The CAIR designated representative shall submit to the department, the appropriate U.S. EPA Regional Office, and the U.S. EPA written notice of the dates of certification testing, in accordance with subsection (m).

(B) The CAIR designated representative shall submit to the department a certification application for each monitoring system. A complete certification application shall include the information specified in 40 CFR 75.63\*.

(C) The provisional certification date for a monitoring system shall be determined in accordance with 40 CFR 75.20(a)(3)\*. A provisionally certified monitoring system may be used under the CAIR SO<sub>2</sub> trading program for a period not to exceed one hundred twenty (120) days after receipt by the department of the complete certification application for the monitoring system under clause (B). Data measured and recorded by the provisionally certified monitoring system, in accordance with the requirements of 40 CFR 75\*, shall be considered valid quality-assured data, retroactive to the date and time of provisional certification, provided that the department does not invalidate the provisional certification by issuing a notice of disapproval within one hundred twenty (120) days of the date of receipt of the complete certification application by the department.

(D) The department shall issue a written notice of approval or disapproval of the certification application to the owner or operator within one hundred twenty (120) days of receipt of the complete certification application under clause (B). In the event the department does not issue such a notice within such one hundred twenty (120) day period, each monitoring system that meets the applicable performance requirements of 40 CFR 75\* and is included in the certification application shall be deemed certified for use under the CAIR SO<sub>2</sub> trading program. The issuance of notices shall be as follows:

(i) If the certification application is complete and shows that each monitoring system meets the applicable performance requirements of 40 CFR 75\*, then the department shall issue a written notice of approval of the certification application within one hundred twenty (120) days of receipt.

(ii) If the certification application is not complete, then the department shall issue a written notice of incompleteness that sets a reasonable date by which the CAIR designated representative must submit the additional information required to complete the certification application. If the CAIR designated representative does not comply with the notice of incompleteness by the specified date, then the department may issue a notice of disapproval under item (iii). The one hundred

twenty (120) day review period shall not begin before receipt of a complete certification application.

(iii) If the certification application shows that any monitoring system does not meet the performance requirements of 40 CFR 75\* or if the certification application is incomplete and the requirement for disapproval under item (ii) is met, then the department shall issue a written notice of disapproval of the certification application. Upon issuance of such notice of disapproval, the provisional certification is invalidated by the department and the data measured and recorded by each uncertified monitoring system shall not be considered valid quality-assured data beginning with the date and hour of provisional certification, as defined under 40 CFR 75.20(a)(3)\*. The owner or operator shall follow the procedures for loss of certification in clause (E) for each monitoring system that is disapproved for initial certification.

(iv) The department or, for a CAIR SO<sub>2</sub> opt-in unit or a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under section 11 of this rule, the U.S. EPA may issue a notice of disapproval of the certification status of a monitor in accordance with subsection (I).

(E) If the department or the U.S. EPA issues a notice of disapproval of a certification application under clause (D)(iii) or a notice of disapproval of certification status under clause (D)(iv), then the following shall apply:

(i) The owner or operator shall substitute the following values, for each disapproved monitoring system, for each hour of unit operation during the period of invalid data specified under 40 CFR 75.20(a)(4)(iii)\*, 40 CFR 75.20(g)(7)\*, or 40 CFR 75.21(e)\* and continuing until the applicable date and hour specified under 40 CFR 75.20(a)(5)(I)\* or 40 CFR 75.20(g)(7)\*:

(AA) For a disapproved SO<sub>2</sub> pollutant concentration monitor and disapproved flow monitor, respectively, the maximum potential concentration of SO<sub>2</sub> and the maximum potential flow rate, as defined in 40 CFR 75, Appendix A, Sections 2.1.1.1 and 2.1.4.1\*.

(BB) For a disapproved moisture monitoring system and disapproved diluent gas monitoring system, respectively, the minimum potential moisture percentage and either the maximum potential CO<sub>2</sub> concentration or the minimum potential O<sub>2</sub> concentration, as applicable, as defined in 40 CFR 75, Appendix A, Sections 2.1.5, 2.1.3.1, and 2.1.3.2\*.

(CC) For a disapproved fuel flowmeter system, the maximum potential fuel flow rate, as defined in 40 CFR 75, Appendix D, Section 2.4.2.1\*.

(ii) The CAIR designated representative shall submit a notification of certification retest dates and a new certification application in accordance with clauses (A) and (B).

(iii) The owner or operator shall repeat all certification tests or other requirements that were failed by the monitoring system, as indicated in the department's or the U.S. EPA's notice of disapproval, not later than thirty (30) unit operating days after the date of issuance of the notice of disapproval.

(i) The owner or operator of a unit qualified to use the low mass emissions (LME) excepted methodology under 40 CFR 75.19\* shall meet the applicable certification and recertification requirements in 40 CFR 75.19(a)(2)\* and 40 CFR 75.20(h)\*. If the owner or operator of such a unit elects to certify a fuel flowmeter system for heat input determination, the owner or operator shall also meet the certification and recertification requirements in 40 CFR 75.20(g)\*.

(j) The CAIR designated representative of each unit for which the owner or operator intends to use an alternative monitoring system approved by the U.S. EPA and, if applicable, the department under 40 CFR 75, Subpart E\* shall comply with the applicable notification and application procedures of 40 CFR 75.20(f)\*.

(k) Whenever any monitoring system fails to meet the quality-assurance and quality-control requirements or data validation requirements of 40 CFR 75\*, data shall be substituted using the applicable missing data procedures in 40 CFR 75, Subpart D\* or 40 CFR 75, Appendix D\*.

(l) Whenever both an audit of a monitoring system and a review of the initial certification or recertification application reveal that any monitoring system should not have been certified or recertified because it did not meet a particular performance specification or other requirement under subsections (f) through (j) or the applicable provisions of 40 CFR 75\*, both at the time of the initial certification or recertification application submission and at the time of the audit, the department or, for a CAIR SO<sub>2</sub> opt-in unit or a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under section 11 of this rule, the U.S. EPA will issue a notice of disapproval of the certification status of such monitoring system. For the purposes of this subsection, an

audit shall be either a field audit or an audit of any information submitted to the department or the U.S. EPA. By issuing the notice of disapproval, the department or the U.S. EPA revokes prospectively the certification status of the monitoring system. The data measured and recorded by the monitoring system shall not be considered valid quality-assured data from the date of issuance of the notification of the revoked certification status until the date and time that the owner or operator completes subsequently approved initial certification or recertification tests for the monitoring system. The owner or operator shall follow the applicable initial certification or recertification procedures in subsections (f) through (j) for each disapproved monitoring system.

(m) The CAIR designated representative for a CAIR SO<sub>2</sub> unit shall submit written notice to the department and the U.S. EPA in accordance with 40 CFR 75.61\*.

(n) The CAIR designated representative shall comply with all record keeping and reporting requirements in this subsection, the applicable record keeping and reporting requirements in 40 CFR 75, Subparts F and G\*, and the requirements of section 6(e)(1) of this rule as follows:

(1) The owner or operator of a CAIR SO<sub>2</sub> unit shall comply with requirements of 40 CFR 75.62\* and, for a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under section 11 of this rule.

(2) The CAIR designated representative shall submit an application to the department within forty-five (45) days after completing all initial certification or recertification tests required under subsections (f) through (j), including the information required under 40 CFR 75.63\*.

(3) The CAIR designated representative shall submit quarterly reports as follows:

(A) The CAIR designated representative shall report the SO<sub>2</sub> mass emissions data and heat input data for the CAIR SO<sub>2</sub> unit, in an electronic quarterly report in a format prescribed by the U.S. EPA, for each calendar quarter beginning with:

(i) for a unit that commences commercial operation before July 1, 2008, the calendar quarter covering January 1, 2009, through March 31, 2009;

(ii) for a unit that commences commercial operation on or after July 1, 2008, the calendar quarter corresponding to the earlier of the date of provisional certification or the applicable deadline for initial certification under subsection (c), unless that quarter is the third or fourth quarter of 2008, in which case reporting shall commence in the quarter covering January 1, 2009, through March 31, 2009;

(iii) notwithstanding items (i) and (ii), for a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under section 11 of this rule, the calendar quarter corresponding to the date specified in section 11(f)(2), 11(f)(3), and 11(f)(4) of this rule; and

(iv) notwithstanding items (i) and (ii), for a CAIR SO<sub>2</sub> opt-in unit under section 11 of this rule, the calendar quarter corresponding to the date on which the CAIR SO<sub>2</sub> opt-in unit enters the CAIR SO<sub>2</sub> trading program as provided in section 11(f)(9) of this rule.

(B) The CAIR designated representative shall submit each quarterly report to the U.S. EPA within thirty (30) days following the end of the calendar quarter covered by the report. Quarterly reports shall be submitted in the manner specified in 40 CFR 75.64\*.

(C) For CAIR SO<sub>2</sub> units that are also subject to an acid rain emissions limitation or the CAIR NO<sub>x</sub> ozone season trading program or CAIR NO<sub>x</sub> trading program, quarterly reports shall include the applicable data and information required by 40 CFR 75, Subparts F through H\* as applicable, in addition to the SO<sub>2</sub> mass emission data, heat input data, and other information required by this subpart.

(4) The CAIR designated representative shall submit to the U.S. EPA a compliance certification, in a format prescribed by the U.S. EPA in support of each quarterly report based on reasonable inquiry of those persons with primary responsibility for ensuring that all of the unit's emissions are correctly and fully monitored. The certification shall state that:

(A) the monitoring data submitted were recorded in accordance with the applicable requirements of this section and 40 CFR 75\*, including the quality assurance procedures and specifications; and

(B) for a unit with add-on SO<sub>2</sub> emission controls and for all hours where SO<sub>2</sub> data are substituted in accordance with 40 CFR 75.34(a)(1)\*, the add-on emission controls were operating within the range of parameters listed in the quality assurance/quality control program under 40 CFR 75, Appendix B\* and the substitute data values do not systematically underestimate SO<sub>2</sub> emissions.

(o) A petition requesting approval of alternatives to any requirement of this section may be made as

follows:

- (1) The CAIR designated representative of a CAIR SO<sub>2</sub> unit that is subject to an acid rain emissions limitation may submit a petition under 40 CFR 75.66\* to the U.S. EPA requesting approval to apply an alternative to any requirement of this subpart. Application of an alternative to any requirement of this subpart is in accordance with this section only to the extent that the petition is approved in writing by the U.S. EPA, in consultation with the department.
- (2) The CAIR designated representative of a CAIR SO<sub>2</sub> unit that is not subject to an acid rain emissions limitation may submit a petition under 40 CFR 75.66\* to the department and the U.S. EPA requesting approval to apply an alternative to any requirement of this subpart. Application of an alternative to any requirement of this subpart is in accordance with this subpart only to the extent that the petition is approved in writing by both the department and the U.S. EPA.

(p) The owner or operator of a CAIR SO<sub>2</sub> unit is subject to the applicable provisions of 40 CFR 75\* concerning units in long term cold storage.

\*These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.

(Air Pollution Control Board; [326 IAC 24-2-10](#))

#### [326 IAC 24-2-11](#) CAIR SO<sub>2</sub> opt-in units

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 11. (a) A CAIR SO<sub>2</sub> opt-in unit must be a unit that meets the following requirements:

- (1) Is located in Indiana.
- (2) Is not a CAIR SO<sub>2</sub> unit under section 1 of this rule and is not covered by a retired unit exemption that is in effect under section 3 of this rule.
- (3) Is not covered by a retired unit exemption that is in effect under 40 CFR 72.8\* and is not an opt-in source under 40 CFR 74\*.
- (4) Has or is required or qualified to have a Part 70 operating permit or other federally enforceable permit.
- (5) Vents all of its emissions to a stack and can meet the monitoring, record keeping, and reporting requirements of section 10 of this rule.

(b) Except as otherwise provided sections 1, 2, 4 through 7, and 8 through 10 of this rule, a CAIR SO<sub>2</sub> opt-in unit shall be treated as a CAIR SO<sub>2</sub> unit for purposes of applying such sections of this rule.

(c) Solely for purposes of applying, as provided in this section, the requirements of section 10 to a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under this section, such unit shall be treated as a CAIR SO<sub>2</sub> unit before issuance of a CAIR opt-in permit for such unit.

(d) Any CAIR SO<sub>2</sub> opt-in unit, and any unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under this section, located at the same source as one (1) or more CAIR SO<sub>2</sub> units shall have the same CAIR designated representative and alternate CAIR designated representative as such CAIR SO<sub>2</sub> units.

(e) The CAIR designated representative of a unit meeting the requirements for a CAIR SO<sub>2</sub> opt-in unit in subsection (a) may apply for an initial CAIR opt-in permit at any time, except as provided under subsection (h)(8) and (h)(9), and, in order to apply, must submit the following:

- (1) A complete CAIR permit application under section 7(c) of this rule.
- (2) A certification, in a format specified by the department, that the unit:
  - (A) is not a CAIR SO<sub>2</sub> unit under section 1 of this rule and is not covered by a retired unit exemption

that is in effect under section 3 of this rule;

(B) is not covered by a retired unit exemption that is in effect under 40 CFR 72.8\*;

(C) is not and, so long as the unit is a CAIR SO<sub>2</sub> opt-in unit, shall not become, an opt-in source under 40 CFR 74\*;

(D) vents all of its SO<sub>2</sub> emissions to a stack; and

(E) has documented heat input for more than eight hundred seventy-six (876) hours during the six (6) months immediately preceding submission of the CAIR permit application under section 7(c) of this rule.

(3) A monitoring plan in accordance with section 10 of this rule.

(4) A complete certificate of representation under section 6(h) of this rule consistent with subsection (d), if no CAIR designated representative has been previously designated for the source that includes the unit.

(5) A statement, in a format specified by the department, whether the CAIR designated representative requests that the unit be allocated CAIR SO<sub>2</sub> allowances under subsection (j)(3) or (j)(4), subject to the conditions in subsections (f)(10) and (h)(8). If allocation under subsection (j)(4) is requested, this statement shall include a statement that the owners and operators of the unit intend to repower the unit before January 1, 2015, and that they will provide, upon request, documentation demonstrating such intent.

The CAIR designated representative of a CAIR SO<sub>2</sub> opt-in unit shall submit a complete CAIR permit application under section 7(c) of this rule to renew the CAIR opt-in unit permit in accordance with the department's regulations for Part 70 operating permits. Unless the department issues a notification of acceptance of withdrawal of the CAIR SO<sub>2</sub> opt-in unit from the CAIR SO<sub>2</sub> trading program in accordance with subsection (h) or the unit becomes a CAIR SO<sub>2</sub> unit under section 1 of this rule, the CAIR SO<sub>2</sub> opt-in unit shall remain subject to the requirements for a CAIR SO<sub>2</sub> opt-in unit, even if the CAIR designated representative for the CAIR SO<sub>2</sub> opt-in unit fails to submit a CAIR permit application that is required for renewal of the CAIR opt-in permit.

(f) The department shall issue or deny a CAIR opt-in permit for a unit for which an initial application for a CAIR opt-in permit under subsection (e) is submitted in accordance with the following:

(1) The department and the U.S. EPA will determine, on an interim basis, the sufficiency of the monitoring plan accompanying the initial application for a CAIR opt-in permit under subsection (e). A monitoring plan is sufficient, for purposes of interim review, if the plan appears to contain information demonstrating that the SO<sub>2</sub> emissions rate and heat input and all other applicable parameters of the unit and all other applicable parameters are monitored and reported in accordance with section 10 of this rule. A determination of sufficiency shall not be construed as acceptance or approval of the monitoring plan.

(2) If the department and the U.S. EPA determine that the monitoring plan is sufficient under subdivision (1), the owner or operator shall monitor and report the SO<sub>2</sub> emissions rate and the heat input of the unit and all other applicable parameters, in accordance with section 10 of this rule, starting on the date of certification of the appropriate monitoring systems under section 10 of this rule and continuing until a CAIR opt-in permit is denied under subdivision (8) or, if a CAIR opt-in permit is issued, the date and time when the unit is withdrawn from the CAIR SO<sub>2</sub> trading program in accordance with subsection (h).

(3) The monitoring and reporting under subdivision (2) shall include the entire control period immediately before the date on which the unit enters the CAIR SO<sub>2</sub> trading program under subdivision (9), during which period monitoring system availability must not be less than ninety percent (90%) under section 10 of this rule and the unit must be in full compliance with any applicable state or federal emissions or emissions-related requirements.

(4) To the extent the SO<sub>2</sub> emissions rate and the heat input of the unit are monitored and reported in accordance with section 10 of this rule for one (1) or more control periods, in addition to the control period under subdivision (3), during which control periods monitoring system availability is not less than ninety percent (90%) under section 10 of this rule and the unit is in full compliance with any applicable state or federal emissions or emissions-related requirements and which control periods begin not more than three (3) years before the unit enters the CAIR SO<sub>2</sub> trading program under subdivision (9), such information shall be used as provided in subdivisions (5) and (6).

(5) The unit's baseline heat rate shall equal:

(A) if the unit's SO<sub>2</sub> emissions rate and heat input are monitored and reported for only one (1) control period, in accordance with subdivisions (2) and (3), the unit's total heat input, in million British thermal units (MMBtu), for the control period; or

(B) if the unit's SO<sub>2</sub> emissions rate and heat input are monitored and reported for more than one (1)



control period, in accordance with subdivisions (2) through (4), the average of the amounts of the unit's total heat input, in million British thermal units (MMBtu), for the control periods under subdivisions (3) and (4).

(6) The unit's baseline SO<sub>2</sub> emission rate shall equal one (1) of the following:

(A) if the unit's SO<sub>2</sub> emissions rate and heat input are monitored and reported for only one (1) control period, in accordance with subdivisions (2) and (3), the unit's SO<sub>2</sub> emissions rate, in pounds per million British thermal units (lb/MMBtu), for the control period.

(B) if the unit's SO<sub>2</sub> emissions rate and heat input are monitored and reported for more than one (1) control period, in accordance with subdivisions (2) through (4), and the unit does not have add-on SO<sub>2</sub> emission controls during any such control periods, the average of the amounts of the unit's SO<sub>2</sub> emissions rate, in pounds per million British thermal units (lb/MMBtu), for the control periods under subdivisions (3) and (4).

(C) if the unit's SO<sub>2</sub> emissions rate and heat input are monitored and reported for more than one control period, in accordance with subdivisions (2) through (4), and the unit has add-on SO<sub>2</sub> emission controls during any such control periods, the average of the amounts of the unit's SO<sub>2</sub> emissions rate, in pounds per million British thermal units (lb/MMBtu), for such control periods<sup>2</sup> during which the unit has add-on SO<sub>2</sub> emission controls.

(7) After calculating the baseline heat input and the baseline SO<sub>2</sub> emissions rate for the unit under subdivisions (5) and (6) and if the department determines that the CAIR designated representative shows that the unit meets the requirements for a CAIR SO<sub>2</sub> opt-in unit in subsection (a) and meets the elements certified in subsection (e)(2), the department shall issue a CAIR opt-in permit. The department shall provide a copy of the CAIR opt-in permit to the U.S. EPA, who will then establish a compliance account for the source that includes the CAIR SO<sub>2</sub> opt-in unit unless the source already has a compliance account.

(8) Notwithstanding subdivisions (1) through (7), if at any time before issuance of a CAIR opt-in permit for the unit, the department determines that the CAIR designated representative fails to show that the unit meets the requirements for a CAIR opt-in unit in subsection (a) or meets the elements certified in subsection (e)(2), the department shall issue a denial of a CAIR SO<sub>2</sub> opt-in permit for the unit.

(9) A unit for which an initial CAIR opt-in permit is issued by the department shall become a CAIR SO<sub>2</sub> opt-in unit, and a CAIR SO<sub>2</sub> unit, as of the later of January 1, 2010, or January 1 of the first control period during which such CAIR opt-in permit is issued.

(10) If the CAIR designated representative requests, and the department issues a CAIR opt-in permit providing for, allocation to a CAIR SO<sub>2</sub> opt-in unit of CAIR SO<sub>2</sub> allowances under subsection (j)(4) and such unit is repowered after its date of entry into the CAIR SO<sub>2</sub> trading program under subdivision (9), the repowered unit shall be treated as a CAIR SO<sub>2</sub> opt-in unit replacing the original CAIR SO<sub>2</sub> opt-in unit, as of the date of start-up of the repowered unit's combustion chamber.

Notwithstanding subdivisions (5) and (6), as of the date of start-up under subdivision (10), the repowered unit shall be deemed to have the same date of commencement of operation, date of commencement of commercial operation, baseline heat input, and baseline SO<sub>2</sub> emission rate as the original CAIR SO<sub>2</sub> opt-in unit, and the original CAIR SO<sub>2</sub> opt-in unit shall no longer be treated as a CAIR SO<sub>2</sub> opt-in unit or a CAIR SO<sub>2</sub> unit.

(g) The following shall apply to the content of each CAIR opt-in permit:

(1) Each opt-in permit shall contain the following:

(A) All elements required for a complete CAIR permit application under section 7(c) of this rule.

(B) The certification in subsection (e)(2).

(C) The unit's baseline heat input under subsection (f)(5).

(D) The unit's baseline SO<sub>2</sub> emission rate under subsection (f)(6).

(E) A statement whether the unit is to be allocated CAIR SO<sub>2</sub> allowances under subsection (j)(3) or (j)(4), subject to the conditions in subsections (f)(10) and (h)(8).

(F) A statement that the unit may withdraw from the CAIR SO<sub>2</sub> trading program only in accordance with subsection (h).

(G) A statement that the unit is subject to, and the owners and operators of the unit must comply with, the requirements of subsection (i).

(2) Each CAIR opt-in permit is deemed to incorporate automatically the definitions of terms under section 2 of this rule and, upon recordation by the U.S. EPA under this section and sections 8 and 9 of this rule, every allocation, transfer, or deduction of CAIR SO<sub>2</sub> allowances to or from the compliance account of the source that includes a CAIR SO<sub>2</sub> opt-in unit covered by the CAIR opt-in permit.

(3) The CAIR opt-in permit shall be included, in a format specified by the department, in the CAIR permit for the sources where the CAIR SO<sub>2</sub> opt-in is located and in a Part 70 operating permit or

(h) The following requirements must be satisfied in order to withdraw an opt-in unit from the CAIR SO<sub>2</sub> trading program:

(1) Except as provided under subdivision (8), a CAIR SO<sub>2</sub> opt-in unit may withdraw from the CAIR SO<sub>2</sub> trading program, but only if the department issues a notification to the CAIR designated representative of the CAIR SO<sub>2</sub> opt-in unit of the acceptance of the withdrawal of the CAIR SO<sub>2</sub> opt-in unit in accordance with subdivision (6).

(2) In order to withdraw a CAIR SO<sub>2</sub> opt-in unit from the CAIR SO<sub>2</sub> trading program, the CAIR designated representative of the CAIR SO<sub>2</sub> opt-in unit shall submit to the department a request to withdraw effective as of midnight of December 31 of a specified calendar year, which date must be at least four (4) years after December 31 of the year of entry into the CAIR SO<sub>2</sub> trading program under subsection (f)(9). The request must be submitted not later than ninety (90) days before the requested effective date of withdrawal.

(3) Before a CAIR SO<sub>2</sub> opt-in unit covered by a request under subdivision (1) may withdraw from the CAIR SO<sub>2</sub> trading program and the CAIR opt-in permit may be terminated under subdivision (7), the following conditions must be met:

(A) For the control period ending on the date on which the withdrawal is to be effective, the source that includes the CAIR SO<sub>2</sub> opt-in unit must meet the requirement to hold CAIR SO<sub>2</sub> allowances under section 4(c) of this rule and cannot have any excess emissions.

(B) After the requirement for withdrawal under clause (A) is met, the U.S. EPA will deduct from the compliance account of the source that includes the CAIR SO<sub>2</sub> opt-in unit CAIR SO<sub>2</sub> allowances equal in amount to and allocated for the same or a prior control period as any CAIR SO<sub>2</sub> allowances allocated to the CAIR SO<sub>2</sub> opt-in unit under subsection (j) for any control period for which the withdrawal is to be effective. If there are no remaining CAIR SO<sub>2</sub> units at the source, the U.S. EPA will close the compliance account, and the owners and operators of the CAIR SO<sub>2</sub> opt-in unit may submit a CAIR SO<sub>2</sub> allowance transfer for any remaining CAIR SO<sub>2</sub> allowances to another CAIR SO<sub>2</sub> allowance tracking system in accordance with section 9 of this rule.

(4) After the requirements for withdrawal under subdivisions (2) and (3) are met, including deduction of the full amount of CAIR SO<sub>2</sub> allowances required, the department shall issue a notification to the CAIR designated representative of the CAIR SO<sub>2</sub> opt-in unit of the acceptance of the withdrawal of the CAIR SO<sub>2</sub> opt-in unit as of midnight on December 31 of the calendar year for which the withdrawal was requested.

(5) If the requirements for withdrawal under subdivisions (2) and (3) are not met, the department shall issue a notification to the CAIR designated representative of the CAIR SO<sub>2</sub> opt-in unit that the CAIR SO<sub>2</sub> opt-in unit's request to withdraw is denied. Such CAIR SO<sub>2</sub> opt-in unit shall continue to be a CAIR SO<sub>2</sub> opt-in unit.

(6) After the department issues a notification under subdivision (4) that the requirements for withdrawal have been met, the department shall revise the CAIR permit covering the CAIR SO<sub>2</sub> opt-in unit to terminate the CAIR opt-in permit for such unit as of the effective date specified under subdivision (4). The unit shall continue to be a CAIR SO<sub>2</sub> opt-in unit until the effective date of the termination and shall comply with all requirements under the CAIR SO<sub>2</sub> trading program concerning any control periods for which the unit is a CAIR SO<sub>2</sub> opt-in unit, even if such requirements arise or must be complied with after the withdrawal takes effect.

(7) If the department denies the CAIR SO<sub>2</sub> opt-in unit's request to withdraw, the CAIR designated representative may submit another request to withdraw in accordance with subdivisions (2) and (3).

(8) Notwithstanding subdivisions (1) through (7), a CAIR SO<sub>2</sub> opt-in unit shall not be eligible to withdraw from the CAIR SO<sub>2</sub> trading program if the CAIR designated representative of the CAIR SO<sub>2</sub> opt-in unit requests, and the department issues a CAIR SO<sub>2</sub> opt-in permit providing for, allocation to the CAIR SO<sub>2</sub> opt-in unit of CAIR SO<sub>2</sub> allowances under subsection (j)(4).

(9) Once a CAIR SO<sub>2</sub> opt-in unit withdraws from the CAIR SO<sub>2</sub> trading program and its CAIR opt-in permit is terminated under this section, the CAIR designated representative may not submit another application for a CAIR opt-in permit under subsection (e) for such CAIR SO<sub>2</sub> opt-in unit before the date that is four (4) years after the date on which the withdrawal became effective. Such new application for a CAIR opt-in permit shall be treated as an initial application for a CAIR opt-in permit under subsection (f).

(i) When a CAIR SO<sub>2</sub> opt-in unit becomes a CAIR SO<sub>2</sub> unit under section 1 of this rule, then the CAIR designated representative shall notify in writing the department and the U.S. EPA of such change in the CAIR SO<sub>2</sub> opt-in unit's regulatory status, within thirty (30) days of such change. If there is a change in the

regulatory status, the department and the U.S. EPA will take the following actions concerning the CAIR SO<sub>2</sub> opt-in source:

(1) When the CAIR SO<sub>2</sub> opt-in unit becomes a CAIR SO<sub>2</sub> unit under section 1 of this rule, the department shall revise the CAIR SO<sub>2</sub> opt-in unit's CAIR opt-in permit to meet the requirements of a CAIR permit under section 7(d) and (7)(e) of this rule, and remove the CAIR opt-in provisions, as of the date on which the CAIR SO<sub>2</sub> opt-in unit becomes a CAIR SO<sub>2</sub> unit under section 1 of this rule.

(2) The U.S. EPA will deduct from the compliance account of the source that includes the CAIR SO<sub>2</sub> opt-in unit that becomes a CAIR SO<sub>2</sub> unit under section 1 of this rule, CAIR SO<sub>2</sub> allowances equal in amount to and allocated for the same or a prior control period as follows:

(A) Any CAIR SO<sub>2</sub> allowances allocated to the CAIR SO<sub>2</sub> opt-in unit under subsection (j) for any control period after the date on which the CAIR SO<sub>2</sub> opt-in unit becomes a CAIR SO<sub>2</sub> unit under section 1 of this rule.

(B) If the date on which the CAIR SO<sub>2</sub> opt-in unit becomes a CAIR SO<sub>2</sub> unit under section 1 of this rule is not December 31, the CAIR SO<sub>2</sub> allowances allocated to the CAIR SO<sub>2</sub> opt-in unit under subsection (j) for the control period that includes the date on which the CAIR SO<sub>2</sub> opt-in unit becomes a CAIR SO<sub>2</sub> unit under section 1 of this rule, multiplied by the ratio of the number of days, in the control period, starting with the date on which the CAIR SO<sub>2</sub> opt-in unit becomes a CAIR SO<sub>2</sub> unit under section 1 of this rule divided by the total number of days in the control period and rounded to the nearest whole allowance as appropriate.

(3) The CAIR designated representative shall ensure that the compliance account of the source that includes the CAIR SO<sub>2</sub> unit that becomes a CAIR SO<sub>2</sub> unit under section 1 of this rule contains the CAIR SO<sub>2</sub> allowances necessary for completion of the deduction under subdivision (2).

(j) The department shall allocate CAIR SO<sub>2</sub> allowances to CAIR SO<sub>2</sub> opt-in sources as follows:

(1) When the CAIR opt-in permit is issued under subsection (f)(7), the department shall allocate CAIR SO<sub>2</sub> allowances to the CAIR SO<sub>2</sub> opt-in unit, and submit to the U.S. EPA the allocation for the control period in which a CAIR SO<sub>2</sub> opt-in unit enters the CAIR SO<sub>2</sub> trading program under subsection (f)(9), in accordance with subdivision (3) or (4).

(2) By not later than October 31 of the control period in which a CAIR SO<sub>2</sub> opt-in unit enters the CAIR SO<sub>2</sub> trading program under subsection (f)(9) and October 31 of each year thereafter, the department shall allocate CAIR SO<sub>2</sub> allowances to the CAIR SO<sub>2</sub> opt-in unit, and submit to the U.S. EPA the allocation for the control period that includes such submission deadline and in which the unit is a CAIR SO<sub>2</sub> opt-in unit, in accordance with subdivision (3) or (4).

(3) For each control period for which a CAIR SO<sub>2</sub> opt-in unit is to be allocated CAIR SO<sub>2</sub> allowances, the department shall allocate in accordance with the following procedures:

(A) The heat input, in million British thermal units (MMBtu), used for calculating the CAIR SO<sub>2</sub> allowance allocation shall be the lesser of the following:

(i) The CAIR SO<sub>2</sub> opt-in unit's baseline heat input determined under subsection (f)(5).

(ii) The CAIR SO<sub>2</sub> opt-in unit's heat input, as determined in accordance with section 10 of this rule, for the immediately prior control period, except when the allocation is being calculated for the control period in which the CAIR SO<sub>2</sub> opt-in unit enters the CAIR SO<sub>2</sub> trading program under subsection (f)(9).

(B) The SO<sub>2</sub> emission rate, in million British thermal units (MMBtu), used for calculating CAIR SO<sub>2</sub> allowance allocations shall be the lesser of the following:

(i) The CAIR SO<sub>2</sub> opt-in unit's baseline SO<sub>2</sub> emissions rate, in pounds per million British thermal units (lb/MMBtu), determined under subsection (f)(6) and multiplied by seventy percent (70%).

(ii) The most stringent state or federal SO<sub>2</sub> emissions limitation applicable to the CAIR SO<sub>2</sub> opt-in unit at any time during the control period for which CAIR SO<sub>2</sub> allowances are to be allocated.

(C) The department shall allocate CAIR SO<sub>2</sub> allowances to the CAIR SO<sub>2</sub> opt-in unit in an amount equaling the heat input under clause (A), multiplied by the SO<sub>2</sub> emission rate under clause (B), divided by two thousand (2,000) pounds per ton, and rounded to the nearest whole allowance as appropriate.

(4) Notwithstanding subdivision (3) and if the CAIR designated representative requests, and the department issues a CAIR opt-in permit providing for, allocation to a CAIR SO<sub>2</sub> opt-in unit of CAIR SO<sub>2</sub> allowances under this subdivision, subject to the conditions in subsections (f)(10) and (h), the department shall allocate to the CAIR SO<sub>2</sub> opt-in unit as follows:

(A) For each control period in 2010 through 2014 for which the CAIR SO<sub>2</sub> opt-in unit is to be allocated CAIR SO<sub>2</sub> allowances as follows:

(i) The heat input, in million British thermal units (MMBtu), used for calculating CAIR SO<sub>2</sub> allowance allocations shall be determined as described in subdivision (3)(A).

(ii) The SO<sub>2</sub> emission rate, in pounds per million British thermal units (lb/MMBtu), used for calculating CAIR SO<sub>2</sub> allowance allocations shall be the lesser of:

(AA) the CAIR SO<sub>2</sub> opt-in unit's baseline SO<sub>2</sub> emissions rate, in pounds per million British thermal units (lb/MMBtu), determined under subsection (f)(6); or

(BB) the most stringent state or federal SO<sub>2</sub> emissions limitation applicable to the CAIR SO<sub>2</sub> opt-in unit at any time during the control period in which the CAIR SO<sub>2</sub> opt-in unit enters the CAIR SO<sub>2</sub> trading program under subsection (f)(9).

(iii) The department shall allocate CAIR SO<sub>2</sub> allowances to the CAIR SO<sub>2</sub> opt-in unit in an amount equaling the heat input under item (i), multiplied by the SO<sub>2</sub> emission rate under item (ii), divided by two thousand (2,000) pounds per ton, and rounded to the nearest whole allowance as appropriate.

(B) For each control period in 2015 and thereafter for which the CAIR SO<sub>2</sub> opt-in unit is to be allocated CAIR SO<sub>2</sub> allowances as follows:

(i) The heat input, in million British thermal units (MMBtu), used for calculating the CAIR SO<sub>2</sub> allowance allocations shall be determined as described in subdivision (3)(A).

(ii) The SO<sub>2</sub> emission rate, in pounds per million British thermal units (lb/MMBtu), used for calculating the CAIR SO<sub>2</sub> allowance allocation shall be the lesser of:

(AA) the CAIR SO<sub>2</sub> opt-in unit's baseline SO<sub>2</sub> emissions rate, in pounds per million British thermal units (lb/MMBtu), determined under subsection (f)(6) multiplied by ten percent (10%); or

(BB) the most stringent state or federal SO<sub>2</sub> emissions limitation applicable to the CAIR SO<sub>2</sub> opt-in unit at any time during the control period for which CAIR SO<sub>2</sub> allowances are to be allocated.

(iii) The department shall allocate CAIR SO<sub>2</sub> allowances to the CAIR SO<sub>2</sub> opt-in unit in an amount equaling the heat input item (i), multiplied by the SO<sub>2</sub> emission rate under clause (B)(ii), divided by two thousand (2,000) pounds per ton, and rounded to the nearest whole allowance as appropriate.

(5) The U.S. EPA will record, in the compliance account of the source that includes the CAIR SO<sub>2</sub> opt-in unit, the CAIR SO<sub>2</sub> allowances allocated by the department to the CAIR SO<sub>2</sub> opt-in unit under subdivision (1).

(6) By December 1 of the control period in which a CAIR SO<sub>2</sub> opt-in unit enters the CAIR SO<sub>2</sub> trading program under subsection (f)(9) and December 1 of each year thereafter, the U.S. EPA will record, in the compliance account of the source that includes the CAIR SO<sub>2</sub> opt-in unit, the CAIR SO<sub>2</sub> allowances allocated by the department to the CAIR SO<sub>2</sub> opt-in unit under subdivision (2).

\*These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.

(Air Pollution Control Board; [326 IAC 24-2-11](#))

### Rule 3. Clean Air Interstate Rule (CAIR) NO<sub>x</sub> Ozone Season Trading Program

#### [326 IAC 24-3-1](#) Applicability

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 1. (a) This rule establishes a NO<sub>x</sub> ozone season emissions budget and NO<sub>x</sub> trading program for fossil-fuel-fired generating units and large affected units as described in this rule. The following units shall be CAIR NO<sub>x</sub> ozone season units, and any source that includes one (1) or more such units shall be a CAIR NO<sub>x</sub> ozone season source, and shall be subject to the requirements of this rule, except as provided in subsection (b):

(1) Any stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine serving at any time, since the later of November 15, 1990 or the start-up of the unit's combustion chamber, a generator with nameplate capacity of more than twenty-five (25) megawatt electrical producing electricity for sale.

(2) Any large affected unit as defined in section 2 of this rule.

(3) If a stationary boiler or stationary combustion turbine that, under subdivision (1), is not a CAIR NO<sub>x</sub> ozone season unit begins to combust fossil fuel or to serve a generator with nameplate capacity of more than twenty-five (25) megawatt electrical producing electricity for sale, the unit shall become a

CAIR NO<sub>x</sub> ozone season unit as provided in subdivision (1) on the first date on which it both combusts fossil fuel and serves such generator.

(b) Units that meet the requirements set forth in subdivision (1), (2), or (3) shall not be CAIR NO<sub>x</sub> ozone season units as follows:

(1) Any unit that is a CAIR NO<sub>x</sub> ozone season unit under subsection (a):

(A) qualifying as a cogeneration unit during the twelve (12) month period starting on the date the unit first produces electricity and continuing to qualify as a cogeneration unit; and

(B) not serving at any time, since the later of November 15, 1990, or the start-up of the unit's combustion chamber, a generator with nameplate capacity of more than twenty-five (25) megawatt electrical supplying in any calendar year more than one-third (1/3) of the unit's potential electric output capacity or two hundred nineteen thousand (219,000) megawatt hours, whichever is greater, to any utility power distribution system for sale.

If a unit qualifies as a cogeneration unit during the twelve (12) month period starting on the date the unit first produces electricity and meets the requirements of this subdivision for at least one (1) calendar year, but subsequently no longer meets all such requirements, the unit shall become a CAIR NO<sub>x</sub> ozone season unit starting on the earlier of January 1 after the first calendar year during which the unit no longer qualifies as a cogeneration unit or January 1 after the first calendar year during which the unit no longer meets the requirements of clause (B).

(2) Any unit that is a CAIR NO<sub>x</sub> ozone season unit under subsection (a) commencing operation before January 1, 1985:

(A) qualifying as a solid waste incineration unit; and

(B) with an average annual fuel consumption of nonfossil fuel for 1985-1987 exceeding eighty percent (80%), on a British thermal units basis, and an average annual fuel consumption of nonfossil fuel for any three (3) consecutive calendar years after 1990 exceeding eighty percent (80%), on a British thermal units basis.

(3) Any unit that is a CAIR NO<sub>x</sub> ozone season unit under subsection (a) commencing operation on or after January 1, 1985:

(A) qualifying as a solid waste incineration unit; and

(B) with an average annual fuel consumption of nonfossil fuel for the first three (3) calendar years of operation exceeding eighty percent (80%), on a British thermal units basis, and an average annual fuel consumption of nonfossil fuel for any three (3) consecutive calendar years after 1990 exceeding eighty percent (80%), on a British thermal units basis.

(4) If the unit qualifies as a solid waste incineration unit and meets the requirements of subdivision (2) or (3) for at least three (3) consecutive calendar years, but subsequently no longer meets all such requirements, the unit shall become a CAIR NO<sub>x</sub> ozone season unit starting on the earlier of January 1 after the first calendar year during which the unit first no longer qualifies as a solid waste incineration unit or January 1 after the first three (3) consecutive calendar years after 1990 for which the unit has an average annual fuel consumption of fossil fuel of twenty percent (20%) or more.

(Air Pollution Control Board; [326 IAC 24-3-1](#))

### [326 IAC 24-3-2](#) Definitions

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-11-2](#); [IC 13-15](#); [IC 13-17](#)

Sec. 2. For purposes of this rule, the definition given for a term in this rule shall control in any conflict between [326 IAC 1-2](#) and this rule. In addition to the definitions provided in [IC 13-11-2](#) and [326 IAC 1-2](#), the following definitions apply throughout this rule, unless expressly stated otherwise or unless the context clearly implies otherwise:

(1) "Account number" means the identification number given by the U.S. EPA to each CAIR NO<sub>x</sub> ozone season allowance tracking system account.

(2) "Acid rain emissions limitation" means a limitation on emissions of sulfur dioxide or nitrogen oxides under the acid rain program.

(3) "Acid rain program" means a multistate sulfur dioxide and nitrogen oxides air pollution control and emission reduction program established by the U.S. EPA under Title IV of the Clean Air Act and 40 CFR Parts 72 through 78\*.

(4) "Allocate" or "allocation" means, with regard to CAIR NO<sub>x</sub> ozone season allowances, the

determination by the department or the U.S. EPA of the amount of such CAIR NO<sub>x</sub> ozone season allowances to be initially credited to a CAIR NO<sub>x</sub> ozone season unit, a new unit set-aside, or other entity.

(5) "Allowance transfer deadline" means, for a control period, midnight of November 30 (if it is a business day), or midnight of the first business day thereafter (if November 30 is not a business day), immediately following the control period and is the deadline by which a CAIR NO<sub>x</sub> ozone season allowance transfer must be submitted for recordation in a CAIR NO<sub>x</sub> source's compliance account in order to be used to meet the source's CAIR NO<sub>x</sub> ozone season emissions limitation for such control period in accordance with sections 9(i) and 9(j) of this rule.

(6) "Alternate CAIR designated representative" means, for a CAIR NO<sub>x</sub> ozone season source and each CAIR NO<sub>x</sub> ozone season unit at the source, the natural person who is authorized by the owners and operators of the source and all such units at the source in accordance with sections 6 and 12 of this rule, to act on behalf of the CAIR designated representative in matters pertaining to the CAIR NO<sub>x</sub> ozone season trading program. If the CAIR NO<sub>x</sub> ozone season source is also a CAIR NO<sub>x</sub> source, then this natural person shall be the same person as the alternate CAIR designated representative under the CAIR NO<sub>x</sub> annual trading program. If the CAIR NO<sub>x</sub> ozone season source is also a CAIR SO<sub>2</sub> source, then this natural person shall be the same person as the alternate CAIR designated representative under the CAIR SO<sub>2</sub> trading program. If the CAIR NO<sub>x</sub> ozone season source is also subject to the acid rain program, then this natural person shall be the same person as the alternate designated representative under the acid rain program. If the CAIR NO<sub>x</sub> ozone season source is also subject to the mercury budget trading program, then this natural person shall be the same person as the alternate mercury designated representative under the mercury budget trading program.

(7) "Automated data acquisition and handling system" or "DAHS" means that component of the continuous emission monitoring system, or other emissions monitoring system approved for use under section 11 of this rule, designed to interpret and convert individual output signals from pollutant concentration monitors, flow monitors, diluent gas monitors, and other component parts of the monitoring system to produce a continuous record of the measured parameters in the measurement units required by section 11 of this rule.

(8) "Boiler" means an enclosed fossil- or other-fuel-fired combustion device used to produce heat and to transfer heat to recirculating water, steam, or other medium.

(9) "Bottoming-cycle cogeneration unit" means a cogeneration unit in which the energy input to the unit is first used to produce useful thermal energy and at least some of the reject heat from the useful thermal energy application or process is then used for electricity production.

(10) "CAIR authorized account representative" means, with regard to a general account, a responsible natural person who is authorized, in accordance with sections 6, 9, and 12 of this rule, to transfer and otherwise dispose of CAIR NO<sub>x</sub> ozone season allowances held in the general account and, with regard to a compliance account, the CAIR designated representative of the source.

(11) "CAIR designated representative" means, for a CAIR NO<sub>x</sub> ozone season source and each CAIR NO<sub>x</sub> ozone season unit at the source, the natural person who is authorized by the owners and operators of the source and all such units at the source, in accordance with sections 6 and 12 of this rule, to represent and legally bind each owner and operator in matters pertaining to the CAIR NO<sub>x</sub> ozone season trading program. If the CAIR NO<sub>x</sub> ozone season source is also a CAIR NO<sub>x</sub> source, then this natural person shall be the same person as the CAIR designated representative under the CAIR NO<sub>x</sub> annual trading program. If the CAIR NO<sub>x</sub> ozone season source is also a CAIR SO<sub>2</sub> source, then this natural person shall be the same person as the CAIR designated representative under the CAIR SO<sub>2</sub> trading program. If the CAIR NO<sub>x</sub> ozone season source is also subject to the acid rain program, then this natural person shall be the same person as the designated representative under the acid rain program. If the CAIR NO<sub>x</sub> ozone season source is also subject to the mercury budget trading program, then this natural person shall be the same person as the alternate mercury designated representative under the mercury budget trading program.

(12) "CAIR NO<sub>x</sub> annual trading program" means a multistate nitrogen oxides air pollution control and emission reduction program approved and administered by the U.S. EPA in accordance with [326 IAC 24-1](#), 40 CFR 96\*, and 40 CFR 51.123\* or established by the U.S. EPA in accordance with 40 CFR 97, Subparts AA through II\* and 40 CFR 51.123(p)\* and 40 CFR 52.35\*, as a means of mitigating interstate transport of fine particulates and nitrogen oxides.

(13) "CAIR NO<sub>x</sub> ozone season allowance" means a limited authorization issued by the department or the U.S. EPA under section 8 of this rule, section 12(j) of this rule, or 40 CFR 51.123(aa)(2)(iii), 40 CFR 51.123(bb)(2)(iii) or 40 CFR 51.123(bb)(2)(iv), or 40 CFR 51.123(dd)(3) or 40 CFR 51.123(dd)(4)\* to emit one (1) ton of nitrogen oxides during a control period of the specified calendar year for which the authorization is allocated or of any calendar year thereafter under the CAIR NO<sub>x</sub> ozone season program or a limited authorization issued by the department for a control period during 2003 through



2009 under the NO<sub>x</sub> budget trading program in accordance with 40 CFR 51.121(p)\* or [326 IAC 10-4](#) to emit one (1) ton of NO<sub>x</sub> during a control period, provided that the provision in 40 CFR 51.121(b)(2)(i)(E)\* shall not be used in applying this definition. An authorization to emit nitrogen oxides that is not issued under provisions of a state implementation plan that meets requirements of 40 CFR 51.121(p)\* or 40 CFR 51.123(aa)(1) or 40 CFR 51.123(aa)(2), and 40 CFR 51.123(bb)(1), 40 CFR 51.123(bb)(2) or 40 CFR 51.123(dd)\* shall not be a CAIR NO<sub>x</sub> ozone season allowance.

(14) "CAIR NO<sub>x</sub> ozone season allowance deduction" or "deduct CAIR NO<sub>x</sub> ozone season allowances" means the permanent withdrawal of CAIR NO<sub>x</sub> ozone season allowances by the U.S. EPA from a compliance account, for example, in order to account for a specified number of tons of total nitrogen oxides emissions from all CAIR NO<sub>x</sub> ozone season units at a CAIR NO<sub>x</sub> ozone season source for a control period, determined in accordance with section 11 of this rule, or to account for excess emissions.

(15) "CAIR NO<sub>x</sub> ozone season allowances held" or "hold CAIR NO<sub>x</sub> ozone season allowances" means the CAIR NO<sub>x</sub> ozone season allowances recorded by the U.S. EPA, or submitted to the U.S. EPA for recordation, in accordance with sections 9, 10, and 12 of this rule, in a CAIR NO<sub>x</sub> ozone season allowance tracking system account.

(16) "CAIR NO<sub>x</sub> ozone season allowance tracking system" means the system by which the U.S. EPA records allocations, deductions, and transfers of CAIR NO<sub>x</sub> ozone season allowances under the CAIR NO<sub>x</sub> ozone season trading program. Such allowances will be allocated, held, deducted, or transferred only as whole allowances.

(17) "CAIR NO<sub>x</sub> ozone season allowance tracking system account" means an account in the CAIR NO<sub>x</sub> ozone season allowance tracking system established by the U.S. EPA for purposes of recording the allocation, holding, transferring, or deducting of CAIR NO<sub>x</sub> ozone season allowances.

(18) "CAIR NO<sub>x</sub> ozone season emissions limitation" means, for a CAIR NO<sub>x</sub> ozone season source, the tonnage equivalent, in NO<sub>x</sub> emissions in a control period, of the CAIR NO<sub>x</sub> ozone season allowances available for deduction for the source under section 9(i) and 9(j)(1) of this rule for the control period.

(19) "CAIR NO<sub>x</sub> ozone season source" means a source that includes one (1) or more CAIR NO<sub>x</sub> ozone season units.

(20) "CAIR NO<sub>x</sub> ozone season trading program" means a multistate nitrogen oxides air pollution control and emission reduction program approved and administered by the U.S. EPA in accordance with this rule, 40 CFR 96\*, and 40 CFR 51.123\* or established by the U.S. EPA in accordance with 40 CFR 97, Subparts AAAA through IIII\* and 40 CFR 51.123(ee)\* and 40 CFR 52.35, as a means of mitigating interstate transport of ozone and nitrogen oxides.

(21) "CAIR NO<sub>x</sub> ozone season unit" means a unit that is subject to the CAIR NO<sub>x</sub> ozone season trading program under section 1 of this rule and, and except for the purposes of sections 3 and 8 of this rule, a CAIR NO<sub>x</sub> ozone season opt-in unit under section 12 of this rule.

(22) "CAIR NO<sub>x</sub> source" means a source that is subject to the CAIR NO<sub>x</sub> annual trading program.

(23) "CAIR permit" means the legally binding and federally enforceable written document, or portion of such document, issued by the department under section 7 of this rule, including any permit revisions, specifying the CAIR NO<sub>x</sub> ozone season trading program requirements applicable to a CAIR NO<sub>x</sub> ozone season source, to each CAIR NO<sub>x</sub> ozone season unit at the source, and to the owners and operators and the CAIR designated representative of the source and each such unit.

(24) "CAIR SO<sub>2</sub> source" means a source that is subject to the CAIR SO<sub>2</sub> trading program.

(25) "CAIR SO<sub>2</sub> trading program" means a multistate sulfur dioxide air pollution control and emission reduction program approved and administered by the U.S. EPA in accordance with [326 IAC 24-2](#), 40 CFR 96\*, and 40 CFR 51.124\* or established in accordance with 40 CFR 97, Subparts AAA through III and 40 CFR 51.124\* and 40 CFR 52.36\*, as a means of mitigating interstate transport of fine particulates and sulfur dioxide.

(26) "Coal" means any solid fuel classified as anthracite, bituminous, subbituminous, or lignite.

(27) "Coal-derived fuel" means any fuel, whether in a solid, liquid, or gaseous state, produced by the mechanical, thermal, or chemical processing of coal.

(28) "Coal-fired" means:

(A) except for purposes of section 8 of this rule, combusting any amount of coal or coal-derived fuel, alone or in combination with any amount of any other fuel, during any year; or

(B) for purposes of section 8 of this rule, combusting any amount of coal or coal-derived fuel, alone or in combination with any amount of any other fuel, during a specified year.

(29) "Cogeneration unit" means a stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine:

(A) having equipment used to produce electricity and useful thermal energy for industrial, commercial, heating, or cooling purposes through the sequential use of energy; and

(B) producing electricity during the twelve (12) month period starting on the date the unit first

produces electricity and during any calendar year after the calendar year in which the unit first produces electricity:

(i) for a topping-cycle cogeneration unit:

(AA) useful thermal energy not less than five percent (5%) of total energy output; and

(BB) useful power that, when added to one-half (½) of useful thermal energy produced, is not less than forty-two and one-half percent (42.5%) of total energy input, if useful thermal energy produced is fifteen percent (15%) or more of total energy output, or not less than forty-five percent (45%) of total energy input, if useful thermal energy produced is less than fifteen percent (15%) of total energy output; and

(ii) for a bottoming-cycle cogeneration unit, useful power not less than forty-five percent (45%) of total energy input.

(30) "Combustion turbine" means:

(A) an enclosed device comprising a compressor, a combustor, and a turbine and in which the flue gas resulting from the combustion of fuel in the combustor passes through the turbine, rotating the turbine; and

(B) if the enclosed device under clause (A) is combined cycle, any associated duct burner, heat recovery steam generator and steam turbine.

(31) "Commence commercial operation" means, with regard to a unit serving a generator, the following:

(A) To have begun to produce steam, gas, or other heated medium used to generate electricity for sale or use, including test generation, except as provided in sections 3 and 12(f)(10) of this rule, subject to the following:

(i) For a unit that is a CAIR NO<sub>x</sub> ozone season unit under section 1 of this rule on the later of November 15, 1990, or the date the unit commences commercial operation as defined in this clause and that subsequently undergoes a physical change (other than replacement of the unit by a unit at the same source) such date shall remain the date of commencement of commercial operation of the unit, which shall continue to be treated as the same unit.

(ii) For a unit that is a CAIR NO<sub>x</sub> ozone season unit under section 1 of this rule on the later of November 15, 1990, or the date the unit commences commercial operation as defined in this clause and that is subsequently replaced by a unit at the same source (for example, repowered), such date shall remain the replaced unit's date of commencement of commercial operation, and the replacement unit shall be treated as a separate unit with a separate date for commencement of commercial operation as defined in this clause or clause (B) as appropriate.

(B) Notwithstanding clause (A) and except as provided in section 3 of this rule, for a unit that is not a CAIR NO<sub>x</sub> ozone season unit under section 1 of this rule on the later of November 15, 1990, or the date the unit commences commercial operation as defined in clause (A), the unit's date for commencement of commercial operation shall be the date on which the unit becomes a CAIR NO<sub>x</sub> ozone season unit under section 1 of this rule, subject to the following:

(i) For a unit with a date for commencement of commercial operation as defined in this clause and that subsequently undergoes a physical change, other than replacement of the unit by a unit at the same source, such date shall remain the date of commencement of commercial operation of the unit, which shall continue to be treated as the same unit.

(ii) For a unit with a date for commencement of commercial operation as defined in this clause and that is subsequently replaced by a unit at the same source (for example, repowered), such date shall remain the replaced unit's date of commencement of commercial operation, and the replacement unit shall be treated as a separate unit with a separate date for commencement of commercial operation as defined in this clause or clause (A), as appropriate.

(32) "Commence operation" means the following:

(A) To have begun any mechanical, chemical, or electronic process, including, with regard to a unit, start-up of a unit's combustion chamber, except as provided in section 12(f)(10) of this rule.

(B) For a unit that undergoes a physical change (other than replacement of the unit by a unit at the same source) after the date the unit commences operation as defined in clause (A), such date shall remain the unit's date of commencement of operation of the unit, which shall continue to be treated as the same unit.

(C) For a unit that is replaced by a unit at the same source (for example, repowered) after the date the unit commences operation as defined in clause (A), such date shall remain the replaced unit's date of commencement, and the replacement unit shall be treated as a separate unit with a separate date for commencement of operation as defined in this clause or clause (A) or (B), as appropriate, except as provided in section 12(f)(10) of this rule.

(33) "Common stack" means a single flue through which emissions from two (2) or more units are exhausted.

(34) "Compliance account" means a CAIR NO<sub>x</sub> ozone season allowance tracking system account, established by the U.S. EPA for a CAIR NO<sub>x</sub> ozone season source under section 9 or 12 of this rule, in which any CAIR NO<sub>x</sub> ozone season allowance allocations for the CAIR NO<sub>x</sub> ozone season units at the source are initially recorded and in which are held any CAIR NO<sub>x</sub> ozone season allowances available for use for a control period in order to meet the source's CAIR NO<sub>x</sub> ozone season emissions limitation in accordance with section 9(i) and 9(j) of this rule.

(35) "Continuous emission monitoring system" or "CEMS" means the equipment required under section 11 of this rule to sample, analyze, measure, and provide, by means of readings recorded at least once every fifteen (15) minutes, using an automated data acquisition and handling system (DAHS), a permanent record of nitrogen oxides emissions, stack gas volumetric flow rate, stack gas moisture content, and oxygen or carbon dioxide concentration, as applicable, in a manner consistent with 40 CFR 75\*. The following systems are the principal types of continuous emission monitoring systems required under section 11 of this rule:

(A) A flow monitoring system, consisting of a stack flow rate monitor and an automated data acquisition and handling system and providing a permanent, continuous record of stack gas volumetric flow rate, in standard cubic feet per hour (scfh).

(B) A nitrogen oxides concentration monitoring system, consisting of a NO<sub>x</sub> ozone season pollutant concentration monitor and an automated data acquisition and handling system and providing a permanent, continuous record of NO<sub>x</sub> ozone season emissions, in parts per million (ppm).

(C) A nitrogen oxides emission rate (or NO<sub>x</sub>-diluent) monitoring system, consisting of a NO<sub>x</sub> ozone season pollutant concentration monitor, a diluent gas (CO<sub>2</sub> or O<sub>2</sub>) monitor, and an automated data acquisition and handling system and providing a permanent, continuous record of NO<sub>x</sub> ozone season concentration, in parts per million (ppm), diluent gas concentration, in percent CO<sub>2</sub> or O<sub>2</sub>; and NO<sub>x</sub> ozone season emission rate, in pounds per million British thermal units (lb/MMBtu).

(D) A moisture monitoring system, as defined in 40 CFR 75.11(b)(2)\* and providing a permanent, continuous record of the stack gas moisture content, in percent H<sub>2</sub>O.

(E) A carbon dioxide monitoring system, consisting of a CO<sub>2</sub> pollutant concentration monitor, or an oxygen monitor plus suitable mathematical equations from which the CO<sub>2</sub> concentration is derived, and an automated data acquisition and handling system and providing a permanent, continuous record of CO<sub>2</sub> emissions, in percent CO<sub>2</sub>.

(F) An oxygen monitoring system, consisting of an O<sub>2</sub> concentration monitor and an automated data acquisition and handling system and providing a permanent, continuous record of O<sub>2</sub>, in percent O<sub>2</sub>.

(36) "Control period" means the period beginning May 1 of a calendar year, except as provided in section 4(c)(2) of this rule, and ending on September 30 of the same year, inclusive.

(37) "Emissions" means air pollutants exhausted from a unit or source into the atmosphere, as measured, recorded, and reported to the U.S. EPA by the CAIR designated representative and as determined by the U.S. EPA in accordance with section 11 of this rule.

(38) "Energy efficiency or renewable energy projects" means any of the following implemented in Indiana:

(A) End-use energy efficiency projects, including demand-side management programs.

(B) Highly efficient electricity or steam generation for the predominant use of a single end user, such as combined cycle, combined heat and power, microturbines, and fuel cell systems. In order to be considered as highly efficient electricity generation under this clause, combined cycle, combined heat and power, microturbines, and fuel cell generating systems must meet or exceed the following thresholds:

(i) For combined heat and power projects generating both electricity and thermal energy for space, water, or industrial process heat, rated energy efficiency of sixty percent (60%).

(ii) For microturbine projects rated at or below five hundred (500) kilowatts generating capacity, rated energy efficiency of forty percent (40%).

(iii) For combined cycle projects rated at greater than five hundred (500) kilowatts, rated energy efficiency of fifty percent (50%).

(iv) For fuel cell systems, rated energy efficiency of forty percent (40%), whether or not the fuel cell system is part of a combined heat and power energy system.

(C) Zero-emission renewable energy projects, including wind, photovoltaic, solar, and hydropower projects. Eligible hydropower projects are restricted to systems employing a head of ten (10) feet or less or systems employing a head greater than ten (10) feet that make use of a dam that existed before September 16, 2001.

(D) Energy efficiency projects generating electricity through the capture of methane gas from municipal solid waste landfills, water treatment plants, sewage treatment plants, or anaerobic digestion systems operating on animal or plant wastes.

(E) The installation of highly efficient electricity generation equipment for the sale of power where

such equipment replaces or displaces retired electrical generating units. In order to be considered as highly efficient under this clause, generation equipment must meet or exceed the following energy efficiency thresholds:

- (i) For coal-fired electrical generation units, rated energy efficiency of forty-two percent (42%).
- (ii) For natural gas-fired electrical generating units, rated energy efficiency of fifty percent (50%).
- (F) Improvements to existing fossil fuel-fired electrical generation units that increase the efficiency of the unit and decrease the heat rate used to generate electricity, including gas reburning projects that reduce NO<sub>x</sub> emissions.
- (G) The installation of integrated gasification combined cycle equipment producing electricity for sale.
- (H) Renewable energy projects that displace the use of coal, natural gas, or oil through the use of a renewable fuel and reduce NO<sub>x</sub> emissions.

Energy efficiency or renewable energy projects do not include nuclear power projects. This definition is solely for the purposes of implementing this rule and does not apply in other contexts.

(39) "Excess emissions" means any ton of nitrogen oxides emitted by the CAIR NO<sub>x</sub> ozone season units at a CAIR NO<sub>x</sub> ozone season source during a control period that exceeds the CAIR NO<sub>x</sub> ozone season emissions limitation for the source.

(40) "FESOP" means a federally enforceable state operating permit issued under [326 IAC 2-8](#).

(41) "Fossil fuel" means natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from such material.

(42) "Fossil-fuel-fired" means, with regard to a unit, combusting any amount of fossil fuel in any calendar year.

(43) "Fuel oil" means any petroleum-based fuel, including diesel fuel or petroleum derivatives such as oil tar, and any recycled or blended petroleum products or petroleum byproducts used as a fuel whether in a liquid, solid, or gaseous state.

(44) "General account" means a CAIR NO<sub>x</sub> ozone season allowance tracking system account, established under section 9 of this rule, that is not a compliance account.

(45) "Generator" means a device that produces electricity.

(46) "Gross electrical output" means, with regard to a cogeneration unit, electricity made available for use, including any such electricity used in the power production process. This process may include, but is not limited to, any on-site processing or treatment of fuel combusted at the unit and any on-site emission controls.

(47) "Heat input" means, with regard to a specified period of time, the product, in million British thermal units per unit of time (MMBtu/time) of the gross calorific value of the fuel, in British thermal units per pound (Btu/lb), divided by one million (1,000,000) British thermal units per million British thermal units (Btu/MMBtu) and multiplied by the fuel feed rate into a combustion device, in pounds of fuel per unit of time (lb of fuel/time), as measured, recorded, and reported to the U.S. EPA by the CAIR designated representative and determined by the U.S. EPA in accordance with section 11 of this rule and excluding the heat derived from preheated combustion air, recirculated flue gases, or exhaust from other sources.

(48) "Heat input rate" means the amount of heat input, in million British thermal units (MMBtu), divided by unit operating time, in hours, or, with regard to a specific fuel, the amount of heat input attributed to the fuel, in million British thermal units (MMBtu), divided by the unit operating time, in hours, during which the unit combusts the fuel.

(49) "Large affected unit" means the following:

(A) For units other than cogeneration units commencing operation, the following:

(i) Before January 1, 1997, a unit that has a maximum design heat input greater than two hundred fifty million (250,000,000) Btus per hour and that did not serve during 1995 or 1996 a generator producing electricity for sale under a firm contract to the electric grid.

(ii) On or after January 1, 1997, and before January 1, 1999, a unit that has a maximum design heat input greater than two hundred fifty million (250,000,000) Btus per hour and that did not serve during 1997 or 1998 a generator producing electricity for sale under a firm contract to the electric grid.

(iii) On or after January 1, 1999, a unit with a maximum design heat input greater than two hundred fifty million (250,000,000) Btus per hour that:

(AA) at no time serves a generator producing electricity for sale; or

(BB) at any time serves a generator producing electricity for sale, if any such generator has a nameplate capacity of twenty-five (25) megawatt electrical or less and has the potential to use no more than fifty percent (50%) of the potential electrical output capacity of the unit.

(B) For cogeneration units commencing operation, the following:

(i) Before January 1, 1997, a unit with a maximum design heat input greater than two hundred fifty

million (250,000,000) Btus per hour and qualifying as an unaffected unit under the acid rain program for 1995 and 1996.

(ii) In 1997 or 1998, a unit with a maximum design heat input greater than two hundred fifty million (250,000,000) Btus per hour and qualifying as an unaffected unit under the acid rain program for 1997 and 1998.

(iii) On or after January 1, 1999, a unit with a maximum design heat input greater than two hundred fifty million (250,000,000) Btus per hour and qualifying as an unaffected unit under the acid rain program for each year.

The term does not include a unit subject to [326 IAC 10-3](#).

(50) "Life-of-the-unit, firm power contractual arrangement" means a unit participation power sales agreement under which a utility or industrial customer reserves, or is entitled to receive, a specified amount or percentage of nameplate capacity and associated energy generated by any specified unit and pays its proportional amount of such unit's total costs, pursuant to a contract:

(A) for the life of the unit;

(B) for a cumulative term of no less than thirty (30) years, including contracts that permit an election for early termination; or

(C) for a period no less than twenty-five (25) years or seventy percent (70%) of the economic useful life of the unit determined as of the time the unit is built, with option rights to purchase or release some portion of the nameplate capacity and associated energy generated by the unit at the end of the period.

(51) "Maximum design heat input" means the maximum amount of fuel per hour, in British thermal units per hour (Btu/hr), that a unit is capable of combusting on a steady state basis as of the initial installation of the unit as specified by the manufacturer of the unit.

(52) "Mercury budget trading program" means a multistate mercury air pollution control and emission reduction program approved and administered by the U.S. EPA in accordance with 40 CFR 60, Subpart HHHH\* and 40 CFR 60.24(h)(6)\*, or established by the U.S. EPA under the Clean Air Act, Section 111, as a means of reducing national mercury emissions.

(53) "Monitoring system" means any monitoring system that meets the requirements of section 11 of this rule, including a continuous emissions monitoring system, an alternative monitoring system, or an excepted monitoring system under 40 CFR 75\*.

(54) "Most stringent state or federal NO<sub>x</sub> ozone season emissions limitation" means, with regard to a unit, the lowest NO<sub>x</sub> emissions limitation<sup>x</sup>, in terms of pounds per million British thermal units (lb/MMBtu), that is applicable to the unit under state or federal law, regardless of the averaging period to which the emissions limitation applies.

(55) "Nameplate capacity" means, starting from the initial installation of a generator, the maximum electrical generating output, in megawatt electrical (MWe), that the generator is capable of producing on a steady state basis and during continuous operation (when not restricted by seasonal or other deratings) as of such installation as specified by the manufacturer of the generator or, starting from the completion of any subsequent physical change in the generator resulting in an increase in the maximum electrical generating output, in megawatt electrical (MWe), that the generator is capable of producing on a steady state basis and during continuous operation (when not restricted by seasonal or other deratings) such increased maximum amount as of such completion as specified by the person conducting the physical change.

(56) "Oil-fired" means, for the purposes of section 8 of this rule, combusting fuel oil for more than fifteen percent (15%) of the annual heat input in a specified year and not qualifying as coal-fired.

(57) "Operator" means any person who operates, controls, or supervises a CAIR NO<sub>x</sub> ozone season unit or a CAIR NO<sub>x</sub> ozone season source and shall include, but not be limited to, any<sup>x</sup> holding company, utility system, or plant manager of such a unit or source.

(58) "Owner" means any of the following persons:

(A) with regard to a CAIR NO<sub>x</sub> ozone season source or a CAIR NO<sub>x</sub> ozone season unit at a source, respectively:

(i) any holder of any portion of the legal or equitable title in a CAIR NO<sub>x</sub> ozone season unit at the source or the CAIR NO<sub>x</sub> ozone season unit;

(ii) any holder of a leasehold interest in a CAIR NO<sub>x</sub> ozone season unit at the source or the CAIR NO<sub>x</sub> ozone season unit; or

(iii) any purchaser of power from a CAIR NO<sub>x</sub> ozone season unit at the source or the CAIR NO<sub>x</sub> ozone season unit under a life-of-the-unit, firm power contractual arrangement; provided that,<sup>x</sup> unless expressly provided for in a leasehold agreement, owner shall not include a passive lessor, or a person who has an equitable interest through such lessor, whose rental payments are not based, either directly or indirectly, on the revenues or income from such CAIR NO<sub>x</sub> ozone season unit; or

(B) with regard to any general account, any person who has an ownership interest with respect to the CAIR NO<sub>x</sub> ozone season allowances held in the general account and who is subject to the binding agreement for the CAIR authorized account representative to represent the person's ownership interest with respect to CAIR NO<sub>x</sub> ozone season allowances.

(59) "Potential electrical output capacity" means thirty-three percent (33%) of a unit's maximum design heat input, divided by three thousand four hundred thirteen (3,413) Btu/kilowatt hour, divided by one thousand (1,000) kilowatt hour/megawatt hour, and multiplied by eight thousand seven hundred sixty (8,760) hours/year.

(60) "Rated energy efficiency" means the percentage of gross energy input that is recovered as useable net energy output in the form of electricity or thermal energy, or both, that is used for heating, cooling, industrial processes, or other beneficial uses as follows:

(A) For electric generators, rated energy efficiency is calculated as one (1) net kilowatt hour (three thousand four hundred twelve (3,412) British thermal units) of electricity divided by the unit's design heat rate using the higher heating value of the fuel.

(B) For combined heat and power projects, rated energy efficiency is calculated using the following formula:

$$\text{Eff\%} = (\text{NEO} + \text{UTO})/\text{GEI}$$

Where: Eff% = Rated energy efficiency.

NEO = Net electrical output of the system converted to British thermal units per unit of time.

UTO = Utilized thermal output or the energy value in British thermal units of thermal energy from the system that is used for heating, cooling, industrial processes, or other beneficial uses, per unit of time.

GEI = Gross energy input, based upon the higher heating value of fuel, per unit of time.

(61) "Receive" or "receipt of" means, when referring to the department or U.S. EPA, to come into possession of a document, information, or correspondence, whether sent in hard copy or by authorized electronic transmission, as indicated in an official log, or by a notation made on the document, information, or correspondence, by the department or U.S. EPA in the regular course of business.

(62) "Recordation", "record", or "recorded" means, with regard to CAIR NO<sub>x</sub> ozone season allowances, the movement of CAIR NO<sub>x</sub> ozone season allowances by the U.S. EPA into or between CAIR NO<sub>x</sub> ozone season allowance tracking system accounts, for purposes of allocation, transfer, or deduction.

(63) "Reference method" means any direct test method of sampling and analyzing for an air pollutant as specified in 40 CFR 75.22\*.

(64) "Replacement", "replace", or "replaced" means, with regard to a unit, the demolishing of a unit, or the permanent shutdown and permanent disabling of a unit, and the construction of another unit (the replacement unit) to be used instead of the demolished or shutdown unit (the replaced unit).

(65) "Repowered" means, with regard to a unit, replacement of a coal-fired boiler with one (1) of the following coal-fired technologies at the same source as the coal-fired boiler:

(A) Atmospheric or pressurized fluidized bed combustion.

(B) Integrated gasification combined cycle.

(C) Magnetohydrodynamics.

(D) Direct and indirect coal-fired turbines.

(E) Integrated gasification fuel cells.

(F) As determined by the U.S. EPA in consultation with the Secretary of Energy, a derivative of one (1) or more of the technologies under clauses (A) through (E) and any other coal-fired technology capable of controlling multiple combustion emissions simultaneously with improved boiler or generation efficiency and with significantly greater waste reduction relative to the performance of technology in widespread commercial use as of January 1, 2005.

(66) "Sequential use of energy" means:

(A) for a topping-cycle cogeneration unit, the use of reject heat from electricity production in a useful thermal energy application or process; or

(B) for a bottoming-cycle cogeneration unit, the use of reject heat from useful thermal energy application or process in electricity production.

(67) "Serial number" means, for a CAIR NO<sub>x</sub> ozone season allowance, the unique identification number assigned to each CAIR NO<sub>x</sub> ozone season allowance by the U.S. EPA.

(68) "Solid waste incineration unit" means a stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine that is a solid waste incineration unit as defined in the Clean Air Act, Section 129(g)(1).

(69) "Source" means all buildings, structures, or installations located in one (1) or more contiguous or



adjacent properties under common control of the same person or persons. For purposes of Section 502(c) of the Clean Air Act, a source, including a source with multiple units, shall be considered a single facility.

(70) "Submit" or "serve" means to send or transmit a document, information, or correspondence to the person specified in accordance with the applicable rule:

(A) in person;

(B) by United States Postal Service; or

(C) by other means of dispatch or transmission and delivery.

Compliance with any submission or service deadline shall be determined by the date of dispatch, transmission, or mailing and not the date of receipt by the department or U.S. EPA.

(71) "Title V operating permit" or "Part 70 operating permit" means a permit issued under [326 IAC 2-7](#).

(72) "Title V operating permit regulations" or "Part 70 operating permit regulations" means the rules under [326 IAC 2-7](#).

(73) "Ton" means two thousand (2,000) pounds. For the purpose of determining compliance with the CAIR NO<sub>x</sub> ozone season emissions limitation, total tons of nitrogen oxides emissions for a control period shall be calculated as the sum of all recorded hourly emissions, or the mass equivalent of the recorded hourly emission rates, in accordance with section 11 of this rule, but with any remaining fraction of a ton equal to or greater than fifty-hundredths (0.50) tons deemed to equal one (1) ton and any remaining fraction of a ton less than fifty-hundredths (0.50) tons deemed to equal zero (0) tons.

(74) "Topping-cycle cogeneration unit" means a cogeneration unit in which the energy input to the unit is first used to produce useful power, including electricity, and at least some of the reject heat from the electricity production is then used to provide useful thermal energy.

(75) "Total energy input" means, with regard to a cogeneration unit, total energy of all forms supplied to the cogeneration unit, excluding energy produced by the cogeneration unit itself.

(76) "Total energy output" means, with regard to a cogeneration unit, the sum of useful power and useful thermal energy produced by the cogeneration unit.

(77) "Unit" means a stationary, fossil-fuel-fired boiler or combustion turbine or other stationary, fossil-fuel-fired combustion device.

(78) "Unit operating day" means a calendar day in which a unit combusts any fuel.

(79) "Unit operating hour" or "hour of unit operation" means an hour in which a unit combusts any fuel.

(80) "Useful power" means, with regard to a cogeneration unit, electricity or mechanical energy made available for use, excluding any such energy used in the power production process, which process includes, but is not limited to, any on-site processing or treatment of fuel combusted at the unit and any on-site emission controls.

(81) "Useful thermal energy" means, with regard to a cogeneration unit, thermal energy that is:

(A) made available to an industrial or commercial process, not a power production process, excluding any heat contained in condensate return or makeup water;

(B) used in a heating application (for example, space heating or domestic hot water heating); or

(C) used in a space cooling application (that is, thermal energy used by an absorption chiller).

(82) "Utility power distribution system" means the portion of an electricity grid owned or operated by a utility and dedicated to delivering electricity to customers.

\*These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.

(Air Pollution Control Board; [326 IAC 24-3-2](#))

### [326 IAC 24-3-3](#) Retired unit exemption

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 3. (a) This section applies to any CAIR NO<sub>x</sub> ozone season unit, other than a NO<sub>x</sub> ozone season opt-in source, that is permanently retired.

(b) Any CAIR NO<sub>x</sub> ozone season unit that is permanently retired and is not a CAIR NO<sub>x</sub> ozone season

opt-in unit under section 12 of this rule shall be exempt from the CAIR NO<sub>x</sub> ozone season trading program, except for the provisions of this section, sections 1, 2, 4(c)(4) through 4(c)(7), 5, 6, and 8 through 10 of this rule.

(c) The exemption under this section shall become effective the day on which the CAIR NO<sub>x</sub> ozone season unit is permanently retired. Within thirty (30) days of the unit's permanent retirement, the CAIR designated representative shall submit a statement to the department and shall submit a copy of the statement to the U.S. EPA. The statement shall state, in a format prescribed by the department, that the unit was permanently retired on a specific date and shall comply with the requirements of subsection (e).

(d) After receipt of the statement under subsection (c), the department shall amend any permit under section 7 of this rule covering the source at which the unit is located to add the provisions and requirements of the exemption under subsections (b) and (e).

(e) A unit exempt under this section shall comply with the following provisions:

(1) The unit shall not emit any nitrogen oxides, starting on the date that the exemption takes effect.

(2) The department shall allocate CAIR NO<sub>x</sub> ozone season allowances under section 8 of this rule to the unit.

(3) For a period of five (5) years from the date the records are created, the owners and operators of the unit shall retain, at the source that includes the unit, or a central location within Indiana for those owners and operators with unattended sources, records demonstrating that the unit is permanently retired. The five (5) year period for keeping records may be extended for cause, at any time before the end of the period, in writing by the department or U.S. EPA. The owners and operators bear the burden of proof that the unit is permanently retired.

(4) The owners and operators and, to the extent applicable, the CAIR designated representative of the unit shall comply with the requirements of the CAIR NO<sub>x</sub> ozone season trading program concerning all periods for which the exemption is not in effect, even if such requirements arise, or must be complied with, after the exemption takes effect.

(5) If the unit is located at a source that is required, or but for this exemption would be required, to have an operating permit under [326 IAC 2-7](#) or FESOP under [326 IAC 2-8](#), the unit shall not resume operation unless the CAIR designated representative of the source submits a complete CAIR permit application under section 7(c) of this rule for the unit not less than two hundred seventy (270) days or such lesser time provided by the department, before the later of January 1, 2009, or the date on which the unit resumes operation.

(6) A unit exempt under this section shall lose its exemption on the earlier of the following dates:

(A) The date on which the CAIR designated representative submits a CAIR permit application for the unit under subdivision (5).

(B) The date on which the CAIR designated representative is required under subdivision (5) to submit a CAIR permit application for the unit.

(C) The date on which the unit resumes operation, if the CAIR designated representative is not required to submit a CAIR permit application for the unit.

(7) For the purpose of applying monitoring, reporting, and record keeping requirements under section 11 of this rule, a unit that loses its exemption under this section shall be treated as a unit that commences commercial operation on the first date on which the unit resumes operation.

(Air Pollution Control Board; [326 IAC 24-3-3](#))

#### [326 IAC 24-3-4](#) Standard requirements

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 4. (a) The owners and operators, and CAIR designated representative of each CAIR NO<sub>x</sub> ozone season source shall comply with the following permit requirements:

(1) The CAIR designated representative of each CAIR NO<sub>x</sub> ozone season source required to have a federally enforceable permit and each CAIR NO<sub>x</sub> ozone season unit required to have a federally enforceable permit at the source shall submit the following to the department:

(A) A complete CAIR permit application under section 7(c) of this rule in accordance with the

deadlines specified in section 7(b)(1) of this rule.

(B) Any supplemental information that the department determines is necessary in order to review a CAIR permit application in a timely manner and issue or deny a CAIR permit.

(2) The owners and operators of each CAIR NO<sub>x</sub> ozone season source required to have a federally enforceable permit and each CAIR NO<sub>x</sub> ozone season unit required to have a federally enforceable permit at the source shall have a CAIR<sup>x</sup> permit issued by the department under section 7 of this rule for the source and operate the source and the unit in compliance with such CAIR permit.

(3) Except as provided in section 12 of this rule, the owners and operators of a CAIR NO<sub>x</sub> ozone season source that is not otherwise required to have a federally enforceable permit and each CAIR NO<sub>x</sub> ozone season unit that is not otherwise required to have a federally enforceable permit are not required to submit a CAIR permit application, and to have a CAIR permit, under section 7 of this rule for such CAIR NO<sub>x</sub> ozone season source and such CAIR NO<sub>x</sub> ozone season unit.

(b) The owners and operators, and the CAIR designated representative, of each CAIR NO<sub>x</sub> ozone season source and CAIR NO<sub>x</sub> ozone season unit at the source shall comply with the following monitoring, reporting, and record keeping requirements:

(1) The monitoring, reporting, and record keeping requirements of section 11 of this rule.

(2) The emissions measurements recorded and reported in accordance with section 11 of this rule shall be used to determine compliance by each CAIR NO<sub>x</sub> ozone season source with the CAIR NO<sub>x</sub> ozone season emissions limitation under subsection (c).

(c) The owners and operators, and the CAIR designated representative, of each CAIR NO<sub>x</sub> ozone season source and CAIR NO<sub>x</sub> ozone season unit at the source shall comply with the following nitrogen oxides emission requirements:

(1) As of the allowance transfer deadline for a control period, the owners and operators of each CAIR NO<sub>x</sub> ozone season source and each CAIR NO<sub>x</sub> ozone season unit at the source shall hold, in the source's compliance account, CAIR NO<sub>x</sub> ozone season allowances available for compliance deductions for the control period under section 9(i) of this rule in an amount not less than the tons of total nitrogen oxides emissions for the control period from all CAIR NO<sub>x</sub> ozone season units at the source, as determined in accordance with section 11 of this rule.

(2) A CAIR NO<sub>x</sub> ozone season unit shall be subject to the requirements under subdivision (1) for the control period starting on the later of May 1, 2009 or the deadline for meeting the unit's monitor certification requirements under section 11(c)(1), 11(c)(2), 11(c)(3), or 11(c)(7) of this rule and for each control period thereafter.

(3) A CAIR NO<sub>x</sub> ozone season allowance shall not be deducted, for compliance with the requirements under subdivision (1), for a control period in a calendar year before the year for which the CAIR NO<sub>x</sub> ozone season allowance was allocated.

(4) CAIR NO<sub>x</sub> ozone season allowances shall be held in, deducted from, or transferred into or among CAIR NO<sub>x</sub> ozone season allowance tracking system accounts in accordance with sections 9, 10, and 12 of this rule.

(5) A CAIR NO<sub>x</sub> ozone season allowance is a limited authorization to emit one (1) ton of nitrogen oxides in accordance with the CAIR NO<sub>x</sub> ozone season trading program. No provision of the CAIR NO<sub>x</sub> ozone season trading program, the CAIR permit application, the CAIR permit, or an exemption under section 3 of this rule and no provision of law shall be construed to limit the authority of the department or the U.S. EPA to terminate or limit such authorization.

(6) A CAIR NO<sub>x</sub> ozone season allowance does not constitute a property right.

(7) Upon recordation by the U.S. EPA under section 9, 10, or 12 of this rule, every allocation, transfer, or deduction of a CAIR NO<sub>x</sub> ozone season allowance to or from a CAIR NO<sub>x</sub> ozone season source's compliance account is incorporated automatically in any CAIR permit of the source.

(d) If a CAIR NO<sub>x</sub> ozone season source emits nitrogen oxides during any control period in excess of the CAIR NO<sub>x</sub> ozone season emissions limitation, then:

(1) the owners and operators of the source and each CAIR NO<sub>x</sub> ozone season unit at the source shall surrender the CAIR NO<sub>x</sub> ozone season allowances required for deduction under section 9(j)(4) of this rule and pay any fine, penalty, or assessment or comply with any other remedy imposed, for the same violations, under the Clean Air Act or applicable state law; and

(2) each ton of such excess emissions and each day of such control period shall constitute a separate violation of this subpart, the Clean Air Act, and applicable state law.

(e) Owners and operators of each CAIR NO<sub>x</sub> ozone season source and each CAIR NO<sub>x</sub> ozone season unit at the source shall comply with the following record keeping and reporting requirements:

(1) Unless otherwise provided, the owners and operators of the CAIR NO<sub>x</sub> ozone season source and each CAIR NO<sub>x</sub> ozone season unit at the source shall keep on site at the source or a central location within Indiana for those owners and operators with unattended sources, each of the following documents for a period of five (5) years from the date the document is created. This period may be extended for cause, at any time before the end of five (5) years, in writing by the department or U.S. EPA:

(A) The certificate of representation under section 6(h) of this rule for the CAIR designated representative for the source and each CAIR NO<sub>x</sub> ozone season unit at the source and all documents that demonstrate the truth of the statements in the certificate of representation; provided that the certificate and documents shall be retained on site at the source or a central location within Indiana for those owners and operators with unattended sources beyond such five (5) year period until such documents are superseded because of the submission of a new certificate of representation under section 6(h) of this rule changing the CAIR designated representative.

(B) All emissions monitoring information, in accordance with section 11 of this rule, provided that to the extent that section 11 of this rule provides for a three (3) year period for record keeping, the three (3) year period shall apply.

(C) Copies of all reports, compliance certifications, and other submissions and all records made or required under the CAIR NO<sub>x</sub> ozone season trading program.

(D) Copies of all documents used to complete a CAIR permit application and any other submission under the CAIR NO<sub>x</sub> ozone season trading program or to demonstrate compliance with the requirements of the CAIR NO<sub>x</sub> ozone season trading program.

(2) The CAIR designated representative of a CAIR NO<sub>x</sub> ozone season source and each CAIR NO<sub>x</sub> ozone season unit at the source shall submit the reports required under the CAIR NO<sub>x</sub> ozone season trading program, including those under section 11 of this rule.

(f) The owners and operators of each CAIR NO<sub>x</sub> source and each CAIR NO<sub>x</sub> unit shall be liable as follows:

(1) Each CAIR NO<sub>x</sub> ozone season source and each CAIR NO<sub>x</sub> ozone season unit shall meet the requirements of the CAIR NO<sub>x</sub> ozone season trading program.

(2) Any provision of the CAIR NO<sub>x</sub> ozone season trading program that applies to a CAIR NO<sub>x</sub> ozone season source or the CAIR designated representative of a CAIR NO<sub>x</sub> ozone season source shall also apply to the owners and operators of such source and of the CAIR NO<sub>x</sub> ozone season units at the source.

(3) Any provision of the CAIR NO<sub>x</sub> ozone season trading program that applies to a CAIR NO<sub>x</sub> ozone season unit or the CAIR designated representative of a CAIR NO<sub>x</sub> ozone season unit shall also apply to the owners and operators of such unit.

(g) No provision of the CAIR NO<sub>x</sub> ozone season trading program, a CAIR permit application, a CAIR permit, or an exemption under section 3 of this rule shall be construed as exempting or excluding the owners and operators, and the CAIR designated representative, of a CAIR NO<sub>x</sub> ozone season source or CAIR NO<sub>x</sub> ozone season unit from compliance with any other provision of the applicable, approved state implementation plan, a federally enforceable permit, or the Clean Air Act.

(Air Pollution Control Board; [326 IAC 24-3-4](#))

### [326 IAC 24-3-5](#) Computation of time and appeal procedures

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 5. (a) Unless otherwise stated, any time period scheduled, under the CAIR NO<sub>x</sub> ozone season trading program, to begin on the occurrence of an act or event shall begin on the day the act or event occurs.

(b) Unless otherwise stated, any time period scheduled, under the CAIR NO<sub>x</sub> ozone season trading program, to begin before the occurrence of an act or event shall be computed so that the period ends the

day before the act or event occurs.

(c) Unless otherwise stated, if the final day of any time period, under the CAIR NO<sub>x</sub> ozone season trading program, falls on a weekend or a state or federal holiday, the time period shall be extended to the next business day.

(d) The appeal procedures for decisions of the U.S. EPA under the CAIR NO<sub>x</sub> ozone season trading program are set forth in 40 CFR 78\*.

(Air Pollution Control Board; [326 IAC 24-3-5](#))

**[326 IAC 24-3-6](#) CAIR designated representative for CAIR NO<sub>x</sub> ozone season sources**

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 6. (a) Except as provided under subsection (f), each CAIR NO<sub>x</sub> ozone season source, including all CAIR NO<sub>x</sub> ozone season units at the source, shall have one (1) and only one (1) CAIR designated representative, with regard to all matters under the CAIR NO<sub>x</sub> ozone season trading program concerning the source or any CAIR NO<sub>x</sub> ozone season unit at the source.

(b) The CAIR designated representative of the CAIR NO<sub>x</sub> ozone season source shall be selected by an agreement binding on the owners and operators of the source and all CAIR NO<sub>x</sub> ozone season units at the source and shall act in accordance with the certification statement in subsection (h)(4).

(c) Upon receipt by the U.S. EPA of a complete certificate of representation under subsection (h), the CAIR designated representative of the source shall represent and, by its representations, actions, inactions, or submissions, legally bind each owner and operator of the CAIR NO<sub>x</sub> ozone season source represented and each CAIR NO<sub>x</sub> ozone season unit at the source in all matters pertaining to the CAIR NO<sub>x</sub> ozone season trading program, notwithstanding any agreement between the CAIR designated representative and such owners and operators. The owners and operators shall be bound by any decision or order issued to the CAIR designated representative by the department, the U.S. EPA, or a court regarding the source or unit.

(d) No CAIR permit shall be issued, no emissions data reports shall be accepted, and no CAIR NO<sub>x</sub> ozone season allowance tracking system account shall be established for a CAIR NO<sub>x</sub> ozone season unit at a source, until the U.S. EPA has received a complete certificate of representation under subsection (h) for a CAIR designated representative of the source and the CAIR NO<sub>x</sub> ozone season units at the source.

(e) The following shall apply to a submissions made under the CAIR NO<sub>x</sub> ozone season trading program:

(1) Each submission under the CAIR NO<sub>x</sub> ozone season trading program shall be submitted, signed, and certified by the CAIR designated representative for each CAIR NO<sub>x</sub> ozone season source on behalf of which the submission is made. Each such submission shall include the following certification statement by the CAIR designated representative: "I am authorized to make this submission on behalf of the owners and operators of the source or units for which the submission is made. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment."

(2) The department and U.S. EPA will accept or act on a submission made on behalf of owner or operators of a CAIR NO<sub>x</sub> ozone season source or a CAIR NO<sub>x</sub> ozone season unit only if the submission has been made, signed, and certified in accordance with subdivision (1).

(f) The following shall apply where the owners or operators of a CAIR NO<sub>x</sub> source choose to designate an alternate CAIR designated representative:

- (1) A certificate of representation under subsection (h) may designate one (1) and only one (1) alternate CAIR designated representative, who may act on behalf of the CAIR designated representative. The agreement by which the alternate CAIR designated representative is selected shall include a procedure for authorizing the alternate CAIR designated representative to act in lieu of the CAIR designated representative.
- (2) Upon receipt by the U.S. EPA of a complete certificate of representation under subsection (h), any representation, action, inaction, or submission by the alternate CAIR designated representative shall be deemed to be a representation, action, inaction, or submission by the CAIR designated representative.
- (3) Except in this subsection and subsections (a), (d), (g), (h), and (j), and sections 2, 9(a) through 9(c), and 12 (d) of this rule, whenever the term CAIR designated representative is used in this rule, the term shall be construed to include the CAIR designated representative or any alternate CAIR designated representative.

(g) The following shall apply when changing the CAIR designated representative, the alternate CAIR designated representative, or there are changes in the owners or operators:

- (1) The CAIR designated representative may be changed at any time upon receipt by the U.S. EPA of a superseding complete certificate of representation under subsection (h). Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous CAIR designated representative before the time and date when the U.S. EPA receives the superseding certificate of representation shall be binding on the new CAIR designated representative and the owners and operators of the CAIR NO<sub>x</sub> ozone season source and the CAIR NO<sub>x</sub> ozone season units at the source.
- (2) The alternate CAIR designated representative may be changed at any time upon receipt by the U.S. EPA of a superseding complete certificate of representation under subsection (h). Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous alternate CAIR designated representative before the time and date when the U.S. EPA receives the superseding certificate of representation shall be binding on the new alternate CAIR designated representative and the owners and operators of the CAIR NO<sub>x</sub> ozone season source and the CAIR NO<sub>x</sub> ozone season units at the source.
- (3) Changes in the owner and operators shall be made as follows:
  - (A) In the event an owner or operator of a CAIR NO<sub>x</sub> ozone season source or a CAIR NO<sub>x</sub> ozone season unit is not included in the list of owners and operators in the certificate of representation under subsection (h), such owner or operator shall be deemed to be subject to and bound by the certificate of representation, the representations, actions, inactions, and submissions of the CAIR designated representative and any alternate CAIR designated representative of the source or unit, and the decisions and orders of the department, the U.S. EPA, or a court, as if the owner or operator were included in such list.
  - (B) Within thirty (30) days following any change in the owners and operators of a CAIR NO<sub>x</sub> ozone season source or a CAIR NO<sub>x</sub> ozone season unit, including the addition of a new owner or operator, the CAIR designated representative or any alternate CAIR designated representative shall submit a revision to the certificate of representation under subsection (h) amending the list of owners and operators to include the change.

(h) A complete certificate of representation for a CAIR designated representative or an alternate CAIR designated representative shall include the following elements in a format prescribed by the U.S. EPA:

- (1) Identification of the CAIR NO<sub>x</sub> ozone season source, and each CAIR NO<sub>x</sub> ozone season unit at the source, for which the certificate of representation is submitted, including identification and nameplate capacity of each generator served by each such unit.
- (2) The name, address, e-mail address, if any, telephone number, and facsimile transmission number, if any, of the CAIR designated representative and any alternate CAIR designated representative.
- (3) A list of the owners and operators of the CAIR NO<sub>x</sub> ozone season source and of each CAIR NO<sub>x</sub> ozone season unit at the source.
- (4) The following certification statements by the CAIR designated representative and any alternate CAIR designated representative: "I certify that I was selected as the CAIR designated representative or alternate CAIR designated representative, as applicable, by an agreement binding on the owners and operators of the source and each CAIR NO<sub>x</sub> ozone season unit at the source. I certify that I have all the necessary authority to carry out my duties and responsibilities under the CAIR NO<sub>x</sub> ozone season trading program on behalf of the owners and operators of the source and of each CAIR NO<sub>x</sub> ozone



season unit at the source and that each such owner and operator shall be fully bound by my representations, actions, inactions, or submissions. I certify that the owners and operators of the source and of each CAIR NO<sub>x</sub> ozone season unit at the source shall be bound by any order issued to me by the U.S. EPA, the department, or a court regarding the source or unit. Where there are multiple holders of a legal or equitable title to, or a leasehold interest in, a CAIR NO<sub>x</sub> ozone season unit, or where a utility or industrial customer purchases power from a CAIR NO<sub>x</sub> ozone season unit under a life-of-the-unit, firm power contractual arrangement, I certify that: I have<sup>x</sup> given a written notice of my selection as the 'CAIR designated representative' or 'alternate CAIR designated representative', as applicable, and of the agreement by which I was selected to each owner and operator of the source and of each CAIR NO<sub>x</sub> ozone season unit at the source; and CAIR NO<sub>x</sub> ozone season allowances and proceeds of transactions involving CAIR NO<sub>x</sub> ozone season allowances shall be deemed to be held or distributed in proportion to each holder's legal, equitable, leasehold, or contractual reservation or entitlement, except that, if such multiple holders have expressly provided for a different distribution of CAIR NO<sub>x</sub> ozone season allowances by contract, CAIR NO<sub>x</sub> ozone season allowances and proceeds of transactions involving CAIR NO<sub>x</sub> ozone season allowances shall be deemed to be held or distributed in accordance with the contract.<sup>x</sup>.

(5) The signature of the CAIR designated representative and any alternate CAIR designated representative and the dates signed.

Unless otherwise required by the department or the U.S. EPA, documents of agreement referred to in the certificate of representation shall not be submitted to the department or the U.S. EPA. Neither the department nor the U.S. EPA shall be under any obligation to review or evaluate the sufficiency of such documents, if submitted.

(i) The following shall apply to objections concerning CAIR designated representatives:

- (1) Once a complete certificate of representation under subsection (h) has been submitted and received, the department and the U.S. EPA will rely on the certificate of representation unless and until a superseding complete certificate of representation under subsection (h) is received by the U.S. EPA.
- (2) Except as provided in subsection (g)(1) and (g)(2), no objection or other communication submitted to the department or the U.S. EPA concerning the authorization, or any representation, action, inaction, or submission, of the CAIR designated representative shall affect any representation, action, inaction, or submission of the CAIR designated representative or the finality of any decision or order by the department or the U.S. EPA under the CAIR NO<sub>x</sub> ozone season trading program.
- (3) Neither the department nor the U.S. EPA will adjudicate any private legal dispute concerning the authorization or any representation, action, inaction, or submission of any CAIR designated representative, including private legal disputes concerning the proceeds of CAIR NO<sub>x</sub> ozone season allowance transfers.

(j) The following shall apply to delegation by CAIR designated representative and alternate CAIR designated representative:

- (1) A CAIR designated representative may delegate, to one (1) or more natural persons, his or her authority to make an electronic submission to the U.S. EPA provided for or required under this article.
- (2) An alternate CAIR designated representative may delegate, to one (1) or more natural persons, his or her authority to make an electronic submission to the U.S. EPA provided for or required under this article.
- (3) In order to delegate authority to make an electronic submission to the U.S. EPA in accordance with subdivision (1) or (2), the CAIR designated representative or alternate CAIR designated representative, as appropriate, must submit to the U.S. EPA a notice of delegation, in a format prescribed by the U.S. EPA, that includes the following elements:
  - (A) The name, address, e-mail address, telephone number, and facsimile transmission number, if any, of the following:
    - (i) The CAIR designated representative or alternate CAIR designated representative.
    - (ii) The natural person, referred to as an "agent".
  - (B) For each such natural person, a list of the type or types of electronic submissions under subdivision (1) or (2) for which authority is delegated to him or her.
  - (C) The following certification statements by such CAIR designated representative or alternate CAIR designated representative:
    - (i) "I agree that any electronic submission to the U.S. EPA that is by an agent identified in this notice of delegation and of a type listed for such agent in this notice of delegation and that is made when I am a CAIR designated representative or alternate CAIR designated representative, as appropriate, and before this notice of delegation is superseded by another notice of delegation

under [326 IAC 24-3-6\(j\)\(4\)](#) shall be deemed to be an electronic submission by me."

(ii) "Until this notice of delegation is superseded by another notice of delegation under [326 IAC 24-3-6\(j\)\(4\)](#), I agree to maintain an e-mail account and to notify the U.S. EPA immediately of any change in my e-mail address unless all delegation of authority by me under [326 IAC 24-3-6\(j\)](#) is terminated."

(4) A notice of delegation submitted under subdivision (3) shall be effective, with regard to the CAIR designated representative or alternate CAIR designated representative identified in such notice, upon receipt of such notice by the U.S. EPA and until receipt by the U.S. EPA of a superseding notice of delegation submitted by such CAIR designated representative or alternate CAIR designated representative, as appropriate. The superseding notice of delegation may replace any previously identified agent, add a new agent, or eliminate entirely any delegation of authority.

(5) Any electronic submission covered by the certification subdivision (3)(C)(i) and made in accordance with a notice of delegation effective under subdivision (4) shall be deemed to be an electronic submission by the CAIR designated representative or alternate CAIR designated representative submitting such notice of delegation.

(Air Pollution Control Board; [326 IAC 24-3-6](#))

### [326 IAC 24-3-7](#) Permit requirements

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 7. (a) For each CAIR NO<sub>x</sub> ozone season source required to have a federally enforceable permit, the permit shall include a CAIR permit administered by the department as follows:

(1) For CAIR NO<sub>x</sub> sources required to have a Part 70 operating permit under [326 IAC 2-7](#), the CAIR portion of the Part 70 permit shall be administered in accordance with [326 IAC 2-7](#), except as provided otherwise by this section and sections 3 and 12 of this rule.

(2) For CAIR NO<sub>x</sub> sources required to have a FESOP under [326 IAC 2-8](#), the CAIR portion of the FESOP shall be administered in accordance with [326 IAC 2-8](#), except as provided otherwise by this section and sections 3 and 12 of this rule.

(3) Each CAIR permit, including a draft or proposed CAIR permit, if applicable, shall contain, with regard to the CAIR NO<sub>x</sub> ozone season source and the CAIR NO<sub>x</sub> ozone season units at the source covered by the CAIR permit, all applicable CAIR NO<sub>x</sub> ozone season trading program, CAIR NO<sub>x</sub> annual trading program, and CAIR SO<sub>2</sub> trading program requirements and shall be a complete and separable portion of the Part 70 operating permit or FESOP.

(b) Requirements for the submission of CAIR permit applications are as follows:

(1) The CAIR designated representative of any CAIR NO<sub>x</sub> ozone season source required to have a Part 70 operating permit or FESOP shall submit to the department a complete CAIR permit application under subsection (c) for the source covering each CAIR NO<sub>x</sub> ozone season unit at the source at least two hundred seventy (270) days before the later of January 1, 2009, or the date on which the CAIR NO<sub>x</sub> ozone season unit commences commercial operation, except as provided in section 12(e) of this rule.

(2) For a CAIR NO<sub>x</sub> ozone season source required to have a Part 70 operating permit or FESOP, the CAIR designated representative shall submit a complete CAIR permit application under subsection (c) for the source covering each CAIR NO<sub>x</sub> ozone season unit at the source to renew the CAIR permit in accordance with [326 IAC 2-7-4\(a\)\(1\)\(D\)](#) or [326 IAC 2-8-3\(h\)](#), as applicable, except as provided in section 12(e) of this rule.

(c) In addition to the requirements of [326 IAC 2-7-4\(c\)](#) or [326 IAC 2-8-3\(c\)](#), a complete CAIR permit application shall include the following elements concerning the CAIR NO<sub>x</sub> ozone season source for which the application is submitted:

(1) Identification of the CAIR NO<sub>x</sub> ozone season source.

(2) Identification of each CAIR NO<sub>x</sub> ozone season unit at the CAIR NO<sub>x</sub> ozone season source.

(3) The standard requirements under section 4 of this rule.

(d) In addition to the requirements under [326 IAC 2-7](#) or [326 IAC 2-8](#), each CAIR permit shall contain, in a format prescribed by the department, all elements required for a complete CAIR permit application

under subsection (c).

(e) Each CAIR permit is deemed to incorporate automatically the definitions of terms under section 2 of this rule and, upon recordation by the U.S. EPA under section 9, 10, or 12 of this rule, every allocation, transfer, or deduction of a CAIR NO<sub>x</sub> ozone season allowance to or from the compliance account of the CAIR NO<sub>x</sub> ozone season source covered by the permit.

(f) The initial CAIR permit covering a CAIR unit for which a complete CAIR permit application is timely submitted under subsection (b) shall become effective upon issuance.

(g) The term of the CAIR permit shall be set by the department, as necessary to facilitate coordination of the renewal of the CAIR permit with issuance, revision, or renewal of the CAIR NO<sub>x</sub> ozone season source's Part 70 operating permit or FESOP.

(h) Except as provided in subsection (e), the department shall revise the CAIR permit, as necessary, in accordance with the following:

- (1) The permit modification and revision provisions under [326 IAC 2-7](#), for a CAIR source with a Part 70 operating permit.
- (2) The permit modification and revision provisions under [326 IAC 2-8](#), for a CAIR source with a FESOP.

(Air Pollution Control Board; [326 IAC 24-3-7](#))

#### [326 IAC 24-3-8](#) CAIR NO<sub>x</sub> ozone season allowance allocations

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 8. (a) The NO<sub>x</sub> ozone season trading program budget allocated by the department under subsections (d) through (j) for each control period shall equal the total number of CAIR NO<sub>x</sub> ozone season allowances apportioned to the CAIR NO<sub>x</sub> ozone season units under section 1 of this rule for the control period, as determined by the procedures in this section. The total number of CAIR NO<sub>x</sub> ozone season allowances that are available for each control period for allocation as CAIR NO<sub>x</sub> ozone season allowances under this rule are fifty-five thousand seven hundred twenty-nine (55,729) tons in 2009, fifty-four thousand nine hundred forty-three (54,943) tons in 2010 through 2014, and forty-eight thousand two hundred sixty-four (48,264) tons in 2015 and thereafter, apportioned as follows:

- (1) For existing units (that is, units that have a baseline heat input, as determined under subsections (c) and (d)):
  - (A) forty-three thousand six hundred fifty-four (43,654) tons in 2009 through 2014 and thirty-eight thousand ninety-five (38,095) tons in 2015 and thereafter for CAIR NO<sub>x</sub> ozone season units under section 1(a)(1) of this rule; and
  - (B) eight thousand five hundred sixty-four (8,564) tons in 2009 and seven thousand nine hundred forty-one (7,941) for large affected units under section 1(a)(2) of this rule for a control period during 2010 and thereafter.
- (2) For new unit allocation set-asides:
  - (A) two thousand two hundred ninety-eight (2,298) tons in 2009 through 2014 and one thousand one hundred seventy-eight (1,178) tons in 2015 and thereafter for CAIR NO<sub>x</sub> ozone season units under section 1(a)(1) of this rule; and
  - (B) ninety-eight (98) tons in 2009 and four hundred (400) tons in 2010 and thereafter for large affected units under section 1(a)(2) of this rule.
- (3) For the energy efficiency and renewable energy allocation set-aside, one thousand one hundred fifteen (1,115) tons in 2009 and five hundred (500) tons in 2010 and thereafter.
- (4) For a hardship set-aside for large affected units under section 1(a)(2) of this rule, one hundred fifty (150) tons in 2010 and thereafter.

(b) The department shall allocate CAIR NO<sub>x</sub> ozone season allowances to CAIR NO<sub>x</sub> ozone season units according to the following schedule:

(1) For CAIR NO<sub>x</sub> ozone season units under section 1(a)(1) and large affected units under 1(a)(2) of this rule, an initial five (5) year allocation and then a six (6) year allocation that is recorded six (6) years in advance of the control period that the allowances may be used as follows:

(A) Within thirty (30) days of the effective date of this rule, the department shall submit to the U.S. EPA the CAIR NO<sub>x</sub> ozone season allowance allocations, in a format prescribed by the U.S. EPA and in accordance with subsections (c), (d), and (e) for the control periods in 2010, 2011, 2012, 2013, and 2014.

(B) By October 31, 2008, and October 31 every six (6) years thereafter, the department shall submit to the U.S. EPA the CAIR NO<sub>x</sub> ozone season allowance allocations, in a format prescribed by the U.S. EPA and in accordance with subsections (c), (d), and (e), for the control periods seven (7), eight (8), nine (9), ten (10), eleven (11), and twelve (12) years after the year of the allowance allocation.

(C) By July 31, 2009 and July 31 of each year thereafter, the department shall submit to the U.S. EPA the CAIR NO<sub>x</sub> ozone season allowance allocations, in a format prescribed by the U.S. EPA and in accordance with subsections (f) through (h), for the control period in the year of the applicable deadline for submission under this rule.

(D) For the 2009 control period, the CAIR NO<sub>x</sub> ozone season allowances are the 2009 ozone season allowances issued under [326 IAC 10-4-9](#) that have been recorded by U.S. EPA as of the effective date of this rule.

(2) The department shall make available for review to the public the CAIR NO<sub>x</sub> allowance allocations under subdivision (1)(B) on July 31 of each year allocations are made and shall provide a thirty (30) day opportunity for submission of objections to the CAIR NO<sub>x</sub> allowance allocations. Objections shall be limited to addressing whether the CAIR NO<sub>x</sub> allowance allocations are in accordance with this section. Based on any such objections, the department shall consider any objections and input from affected sources and, if appropriate, adjust each determination to the extent necessary to ensure that it is in accordance with this section.

(c) The baseline heat input, in million British thermal units (MMBtu), used with respect to CAIR NO<sub>x</sub> ozone season allowance allocations under subsection (d) for each CAIR NO<sub>x</sub> ozone season unit shall be:

(1) For units commencing operation before January 1, 2001:

(A) For a CAIR NO<sub>x</sub> ozone season allowance allocation under subsection (b)(1)(A), the average of the three (3) highest amounts of the unit's adjusted control period heat input for 1998 through 2005, with the adjusted control period heat input for each year calculated as follows:

(i) If the unit is coal-fired during the year, the unit's control period heat input for such year is multiplied by one hundred percent (100%).

(ii) If the unit is oil-fired during the year, the unit's control period heat input for such year is multiplied by sixty percent (60%).

(iii) If the unit is not subject to item (i) or (ii), the unit's control period heat input for such year is multiplied by forty percent (40%).

(B) For a CAIR NO<sub>x</sub> ozone season allowance allocation under subsection (b)(1)(B), the unit's average of the three (3) highest amounts of the unit's adjusted control period heat input for the eight (8) years before when the CAIR NO<sub>x</sub> ozone season allocation is being calculated, with the adjusted control period heat input for each year calculated as follows:

(i) If the unit is coal-fired during the year, the unit's control period heat input for such year is multiplied by one hundred percent (100%).

(ii) If the unit is oil-fired during the year, the unit's control period heat input for such year is multiplied by sixty percent (60%).

(iii) If the unit is not subject to item (i) or (ii), the unit's control period heat input for such year is multiplied by forty percent (40%).

(2) For units commencing operation on or after January 1, 2001, and operating each calendar year during a period of three (3) or more consecutive calendar years, not to exceed eight (8), the average of the three (3) highest amounts of the unit's total converted control period heat input.

(3) A unit's control period heat input, and a unit's status as coal-fired or not coal-fired, for a calendar year under subdivision (1), and a unit's total tons of NO<sub>x</sub> ozone season emissions during a control period in a calendar year under subsection (e)(3), shall be determined in accordance with 40 CFR 75\*, to the extent the unit was otherwise subject to the requirements of 40 CFR 75\* for the year, or shall be based on the best available data reported to the department for the unit, to the extent the unit was not otherwise subject to the requirements of 40 CFR 75\* for the year.

(4) A unit's converted control period heat input for a calendar year under subdivision (2) equals one (1) of the following:

(A) The control period gross electrical output of the generator or generators served by the unit

multiplied by eight thousand nine hundred (8,900) British thermal units per kilowatt hour (Btu/kWh) for coal-fired units or seven thousand six hundred (7,600) British thermal units per kilowatt hour (Btu/kWh) for a unit that is not coal-fired divided by one million (1,000,000) British thermal units per million British thermal units (Btu/MMBtu), provided that if a generator is served by two (2) or more units, then the gross electrical output of the generator shall be attributed to each unit in proportion to the unit's share of the total control period heat input of such units for the year.

(B) For a unit that has equipment used to produce electricity and useful thermal energy for industrial, commercial, heating, or cooling purposes through the sequential use of energy, the control period gross electrical output of the unit multiplied by eight thousand nine hundred (8,900) British thermal units per kilowatt hour (Btu/kWh) plus the useful energy, in British thermal units (Btu), produced during the control period divided by eight-tenths (0.8), and with the sum divided by one million (1,000,000) British thermal units per million British thermal units (Btu/MMBtu).

(d) The department shall allocate CAIR NO<sub>x</sub> ozone season allowances to all CAIR NO<sub>x</sub> ozone season units under section 1(a)(1) of this rule as follows:

(1) For the control period in 2009, the CAIR NO<sub>x</sub> ozone season allowances are the 2009 ozone season allowances issued under [326 IAC 10-4-9](#) that have been recorded by U.S. EPA as of the effective date of this rule.

(2) For each control period in 2010 and thereafter, the department shall allocate to all CAIR NO<sub>x</sub> ozone season units that have a baseline heat input, as determined under subsection (c), a total amount of CAIR NO<sub>x</sub> ozone season allowances as listed in subsection (a)(1), except as provided in subsection (f).

(3) The department shall allocate CAIR NO<sub>x</sub> ozone season allowances to each CAIR NO<sub>x</sub> ozone season unit under this subsection, except large affected units, in an amount determined by multiplying the total amount of CAIR NO<sub>x</sub> ozone season allowances allocated under this subsection by the ratio of the baseline heat input of such CAIR NO<sub>x</sub> ozone season unit to the total amount of baseline heat input of all such CAIR NO<sub>x</sub> ozone season units and rounding to the nearest whole allowance as appropriate.

(e) The department shall allocate CAIR NO<sub>x</sub> ozone season allowances to each large affected unit under section 1(a)(2) of this rule as follows:

(1) For the control period in 2009, the CAIR NO<sub>x</sub> ozone season allowances are the 2009 ozone season allowances issued under [326 IAC 10-4-9](#) that have been recorded by U.S. EPA as of the effective date of this rule.

(2) For the control period in 2010 and thereafter, a fixed CAIR NO<sub>x</sub> ozone season allowance allocation to the following large affected units:

Source	Unit	Allowances
(A) American Electric Power-Rockport	Auxiliary Boiler 1	2
	Auxiliary Boiler 2	2
(B) Portside Energy	Auxiliary Boiler 1	50
	Auxiliary Boiler 2	5
	Combustion Turbine	34

(3) For the control period in 2010 and thereafter, all large affected units that commenced operation before January 1, 2001, and not identified in subdivision (2), CAIR ozone season NO<sub>x</sub> allowances will be allocated as follows:

(A) The target NO<sub>x</sub> emission rate for purposes of allowance allocation for all large affected units that commenced operation before January 1, 2001, shall be as follows:

Source	Target NO <sub>x</sub> Emission Rate (lb NO <sub>x</sub> /MMBtu)
(i) BP Whiting Business (units 1SPS13, 1SPS14, 1SPS15, 1SPS16, 1SPS17, 3SPS31, 3SPS32, 3SPS33, 3SPS34, 3SPS36)	0.184
(ii) C.C. Perry Steam (units 11, 13, 14)	0.17
(iii) C.C. Perry Steam (unit 12)	0.368
(iv) C.C. Perry Steam (units 15, 16)	0.240
(v) Mittal Steel Indiana Harbor (units 211, 212, 213, 401, 402, 403, 404, 405, 501, 502, 503)	0.17
(vi) New Energy (unit U400)	0.24
(vii) Purdue University (units 1, 2)	0.24
(viii) Purdue University (unit 3)	0.17



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(ix) Purdue University (unit 5)	0.24
(x) Warrick (units 1, 2, 3)	0.28

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(B) The maximum design heat input based NO<sub>x</sub> rate allocation shall be the product of the design heat input (Design HI), in million British thermal units per hour (MMBtu/hr), multiplied by three thousand six hundred seventy-two (3,672) hours multiplied by the target NO<sub>x</sub> emission rate in clause (A), in pounds per million British thermal units (lb/MMBtu), multiplied by fifty percent (50%), and divided by two thousand (2,000). The Design HI, in million British thermal units per hour (MMBtu/hr), shall be the value supplied to the U.S. EPA in the RT504 field of the quarterly electronic data report (EDR) as required in section 11 of this rule or equivalent quality assured and certified data.

(C) The actual heat input based NO<sub>x</sub> rate allocation shall be the product of the actual control period heat input multiplied by the target NO<sub>x</sub> emission rate in clause (A) divided by two thousand (2,000).

(i) The unit's actual control period heat input shall be determined using one hundred twenty percent (120%) of the highest actual control period heat input recorded in:

(AA) the years 2000 through 2005 for an allocation under subsection (b)(1)(A); and

(BB) the eight (8) years before the year the CAIR NO<sub>x</sub> ozone season allocation is being calculated under subsection (b)(1)(B).

(ii) Actual control period heat input shall be based on the best available data for each control period reported in accordance with section 11 of this rule and 40 CFR Part 75\* or certified accurate by a responsible official in accordance with [326 IAC 2-7-4\(f\)](#).

(D) The total ozone season CAIR NO<sub>x</sub> allocation shall be the sum of the maximum design heat input based NO<sub>x</sub> rate allocation and actual heat input based NO<sub>x</sub> rate allocation.

(E) If the initial total number of NO<sub>x</sub> allowances allocated to all large affected units for a control period under this subsection does not equal the amount under subsection (a)(1)(B), the department shall adjust the total number of NO<sub>x</sub> allowances allocated to all large affected units for the control period under this subdivision so that the total number of NO<sub>x</sub> allowances allocated equals the amount under subsection (a)(1)(B) minus the allocations under subdivision (2). This adjustment shall be made by:

(i) multiplying each unit's allocation by the amount under subsection (a)(1)(B) minus the amounts allocated in subdivision (2); and

(ii) dividing by the total number of NO<sub>x</sub> allowances allocated under this subdivision, and rounding to the nearest whole NO<sub>x</sub> allowance, as appropriate.

(f) For each control period in 2009 and thereafter, the department shall allocate CAIR NO<sub>x</sub> ozone season allowances to CAIR NO<sub>x</sub> ozone season units under section 1(a)(1) of this rule that commenced operation on or after January 1, 2001 and do not yet have a baseline heat input, as determined under subsection (c), in accordance with the following procedures:

(1) For CAIR NO<sub>x</sub> ozone season units under section 1(a)(1) of this rule, the department shall establish a separate new unit set-aside for each control period equal to two thousand two hundred ninety-eight (2,298) tons for a control period during 2009 through 2014 and one thousand one hundred seventy-eight (1,178) tons for a control period during 2015 and thereafter.

(2) The CAIR designated representative of such a CAIR NO<sub>x</sub> ozone season unit may submit to the department a request, in a format specified by the department, to be allocated CAIR NO<sub>x</sub> ozone season allowances, starting with the later of the control period in 2009 or the first control period after the control period in which the CAIR NO<sub>x</sub> ozone season unit commences commercial operation and until the first control period for which the unit is allocated CAIR NO<sub>x</sub> ozone season allowances under subsection (d). A separate CAIR NO<sub>x</sub> ozone season allowance allocation request for each control period for which CAIR NO<sub>x</sub> ozone season allowances are sought must be submitted on or before February 1 of such control period and after the date on which the CAIR NO<sub>x</sub> ozone season unit commences commercial operation.

(3) In a CAIR NO<sub>x</sub> ozone season allowance allocation request under subdivision (2), the CAIR designated representative may request for a control period CAIR NO<sub>x</sub> ozone season allowances in an amount not exceeding the CAIR NO<sub>x</sub> ozone season unit's total tons of NO<sub>x</sub> ozone season emissions during the calendar year immediately before such control period.

(4) The department shall review each CAIR NO<sub>x</sub> ozone season allowance allocation request under subdivision (2) and shall allocate CAIR NO<sub>x</sub> ozone season allowances for each control period pursuant to such request as follows:

(A) The department shall accept an allowance allocation request only if the request meets, or is adjusted by the department as necessary to meet, the requirements of subdivisions (2) and (3).

(B) On or after February 1 of the control period, the department shall determine the sum of the CAIR NO<sub>x</sub> ozone season allowances requested, as adjusted under clause (A), in all allowance allocation



requests accepted under clause (A) for the control period.

(C) If the amount of CAIR NO<sub>x</sub> ozone season allowances in the new unit set-aside for the control period is greater than or equal to the sum under clause (B), then the department shall allocate the amount of CAIR NO<sub>x</sub> ozone season allowances requested, as adjusted under clause (A), to each CAIR NO<sub>x</sub> ozone season unit covered by an allowance allocation request accepted under clause (A).

(D) If the amount of CAIR NO<sub>x</sub> ozone season allowances in the new unit set-aside for the control period is less than the sum under clause (B), then the department shall allocate to each CAIR NO<sub>x</sub> ozone season unit covered by an allowance allocation request accepted under clause (A) the amount of the CAIR NO<sub>x</sub> ozone season allowances requested, as adjusted under clause (A), multiplied by the amount of CAIR NO<sub>x</sub> ozone season allowances in the new unit set-aside for the control period, divided by the sum determined under clause (B), and rounded to the nearest whole allowance as appropriate.

(E) The department shall notify each CAIR designated representative that submitted an allowance allocation request of the amount of CAIR NO<sub>x</sub> ozone season allowances, if any, allocated for the control period to the CAIR NO<sub>x</sub> ozone season unit covered by the request and submit to U.S. EPA according to section (b)(3).

(g) For each control period in 2009 and thereafter, the department shall allocate CAIR NO<sub>x</sub> ozone season allowances to large affected units under section 1(a)(2) of this rule that commenced operation on or after January 1, 2001 in accordance with the following procedures:

(1) For large affected units under section 1(a)(2) of this rule, the department shall establish a separate new unit set-aside for each control period equal to ninety-eight (98) tons in 2009 and four hundred (400) tons in 2010 and thereafter.

(2) The CAIR designated representative of such a CAIR NO<sub>x</sub> ozone season unit may submit to the department a request, in a format specified by the department, to be allocated CAIR NO<sub>x</sub> ozone season allowances, starting with the later of the control period in 2009 or the first control period after the control period in which the CAIR NO<sub>x</sub> ozone season unit commences commercial operation and until the first control period for which the unit is allocated CAIR NO<sub>x</sub> ozone season allowances under subsection (e). A separate CAIR NO<sub>x</sub> ozone season allowance allocation request for each control period for which CAIR NO<sub>x</sub> allowances are sought must be submitted on or before February 1 of such control period and after the date on which the CAIR NO<sub>x</sub> ozone season unit commences commercial operation.

(3) In a CAIR NO<sub>x</sub> ozone season allowance allocation request under subdivision (2), the CAIR designated representative may request for a control period CAIR NO<sub>x</sub> ozone season allowances in an amount not exceeding the following for determining the total ozone season CAIR NO<sub>x</sub> allocation:

(A) The target NO<sub>x</sub> emission rate for allowance allocation purposes under subsection (e)(3)(A) for units that commence operation on or after January 1, 2001 shall be determined as the lesser of seventeen-hundredths (0.17) lb/MMBtu or the federally enforceable limit on NO<sub>x</sub> emissions found in any applicable permit or rule for the emissions unit, except that a combined heat and power unit with an overall rated energy efficiency of sixty percent (60%) or higher may request allowances based on seventeen-hundredths (0.17) lb/MMBtu notwithstanding the allowable emission rate.

(B) The maximum design heat input based NO<sub>x</sub> rate allocation shall be the product of the design heat input (Design HI), in million British thermal units per hour (MMBtu/hr), multiplied by three thousand six hundred seventy-two (3,672) hours multiplied by the target NO<sub>x</sub> emission rate in clause (A), pound per million British thermal units per hour (lb/MMBtu), multiplied by fifty percent (50%), and divided by two thousand (2,000). The Design HI, in million British thermal units per hour (MMBtu/hr), shall be the value supplied to the U.S. EPA in the RT504 field of the quarterly electronic data report (EDR) as required in section 11 of this rule or equivalent quality assured and certified data.

(C) The actual heat input based NO<sub>x</sub> rate allocation shall be the product of the actual control period heat input multiplied by the target NO<sub>x</sub> emission rate in clause (A) divided by two thousand (2,000).

(i) The unit's actual control period heat input shall be determined using one hundred twenty percent (120%) of the highest actual control period heat input recorded in the calendar years, since the startup of the unit, immediately preceding the allocation year, not to exceed eight (8) years.

(ii) Actual control period heat input shall be based on the best available data for each control period reported in accordance with section 11 of this rule and 40 CFR Part 75\* or certified accurate by a responsible official in accordance with [326 IAC 2-7-4\(f\)](#).

(D) The total ozone season CAIR NO<sub>x</sub> allocation that may be requested shall be the sum of the maximum design heat input based NO<sub>x</sub> rate allocation and actual heat input based NO<sub>x</sub> rate allocation.

(4) The department shall review each CAIR NO<sub>x</sub> ozone season allowance allocation request under subdivision (2) and shall allocate CAIR NO<sub>x</sub> ozone season allowances for each control period pursuant to such request as follows:

(A) The department shall accept an allowance allocation request only if the request meets, or is adjusted by the department as necessary to meet, the requirements of subdivisions (2) and (3).

(B) On or after February 1 of the control period, the department shall determine the sum of the CAIR NO<sub>x</sub> ozone season allowances requested, as adjusted under clause (A), in all allowance allocation requests accepted under clause (A) for the control period.

(C) If the amount of CAIR NO<sub>x</sub> ozone season allowances in the new unit set-aside for the control period is greater than or equal to the sum under clause (B), then the department shall allocate the amount of CAIR NO<sub>x</sub> ozone season allowances requested, as adjusted under clause (A), to each CAIR NO<sub>x</sub> ozone season unit covered by an allowance allocation request accepted under clause (A).

(D) If the new unit set-aside for the control period for which NO<sub>x</sub> allowances are requested has an amount of NO<sub>x</sub> allowances less than the number requested, as adjusted under clause (A), but the energy efficiency and renewable energy allocation set-aside or hardship set-aside for large affected units is under-subscribed, the department shall allocate the amount of the NO<sub>x</sub> allowances requested with the difference allocated from the energy efficiency and renewable energy allocation or hardship set-aside.

(E) If the new unit set-aside for the control period for which NO<sub>x</sub> allowances are requested has an amount of NO<sub>x</sub> allowances less than the number requested, as adjusted under clause (A), and the energy efficiency and renewable energy allocation set-aside or hardship set-aside for large affected units is over-subscribed, the department shall allocate the allocation set-aside on a pro rata basis, multiplied by the amount of CAIR NO<sub>x</sub> ozone season allowances in the new unit set-aside for the control period, divided by the sum determined under clause (B), and rounded to the nearest whole allowance as appropriate.

(F) The department shall notify each CAIR designated representative that submitted an allowance allocation request of the amount of CAIR NO<sub>x</sub> ozone season allowances, if any, allocated for the control period to the CAIR NO<sub>x</sub> ozone season unit covered by the request.

(5) Large affected units commencing operation after January 1, 2001, and allocated allowances under this subsection shall be eligible to receive allowances from the new unit set-aside until allocated allowances in accordance with the provisions of subsection (e). The inventory of sources in subsection (e) shall be updated prior to the allowance allocations in calendar year 2008 (for compliance years 2015-2020), in calendar year 2014 (for compliance years 2021-2026) and every six (6) years thereafter.

(h) If, after completion of the procedures under subsections (f), (g), and (i) for a control period, any unallocated CAIR NO<sub>x</sub> ozone season allowances remain in a new unit set-aside for the control period, the department shall allocate to each CAIR NO<sub>x</sub> ozone season unit that was allocated CAIR NO<sub>x</sub> ozone season allowances under subsection (d) an amount of CAIR NO<sub>x</sub> ozone season allowances equal to the following:

(1) For CAIR NO<sub>x</sub> units under section 1(a)(1), the total amount of such remaining unallocated CAIR NO<sub>x</sub> ozone season allowances, multiplied by the unit's allocation under subsection (d), divided by forty-three thousand six hundred fifty-four (43,654) for a control period during 2009 through 2014, and thirty-eight thousand ninety-five (38,095) for a control period during 2015 and thereafter.

(2) For large affected units, the total amount of such remaining unallocated CAIR NO<sub>x</sub> ozone season allowances, multiplied by the unit's allocation under subsection (d), divided by eight thousand five hundred sixty-four (8,564) in 2009 and seven thousand nine hundred forty-one (7,941) in 2010 and thereafter.

(i) For projects that reduce NO<sub>x</sub> emissions through the implementation of energy efficiency or renewable energy measures, or both, implemented during a control period beginning May 1, 2009, the department shall allocate NO<sub>x</sub> allowances in accordance with the following procedures:

(1) The energy efficiency and renewable energy allocation set-aside shall be allocated NO<sub>x</sub> allowances equal to one thousand one hundred fifteen (1,115) tons in 2009 and five hundred (500) tons in 2010 and thereafter.

(2) Any person may submit to the department a request, in writing, or in a format specified by the department, for NO<sub>x</sub> allowances as follows:

(A) Sponsors of energy efficiency or renewable energy projects in section 2(38)(A) through 2(38)(H) of this rule may request the reservation of NO<sub>x</sub> allowances, for one (1) control period in which the project is implemented. Project sponsors may reapply each year, not to exceed five (5) control

periods for energy efficiency projects in sections 2(38)(A), 2(38)(B), 2(38)(E), and 2(38)(F) of this rule and for an unlimited number of years for projects in sections 2(38)(C), 2(38)(D), and 2(38)(H) of this rule. Requests for allowances may be made for projects implemented two (2) years before the effective date of this rule. Projects must equal at least one (1) ton of NO<sub>x</sub> emissions and multiple projects may be aggregated into one (1) allowance allocation request to equal one (1) or more tons of NO<sub>x</sub> emissions.

(B) The NO<sub>x</sub> allowance allocation request must be submitted by May 1 of the calendar year for which the NO<sub>x</sub> allowance allocation is requested.

(C) The NO<sub>x</sub> allowance allocation request for an integrated gasification combined cycle project under section 2(38)(G) of this rule must be submitted by May 1 of the calendar year for which the NO<sub>x</sub> allowance allocation is requested and after the date on which the department issues a permit to construct the CAIR NO<sub>x</sub> unit. For integrated gasification combined cycle projects, project sponsors may request the reservation of NO<sub>x</sub> allowances, based on the number of kilowatt hours of electricity generated based on an eighty-five percent (85%) capacity factor and expected heat rate of the unit. Project sponsors may reapply each year, not to exceed five (5) control periods. Requests for allowances may be made only for integrated gasification combined cycle projects which first start commercial operations in 2009 and beyond.

(3) In a NO<sub>x</sub> allowance allocation request made under this subsection, the CAIR designated representative may request for a control period, NO<sub>x</sub> allowances not to exceed the following:

(A) Projects in section 2(38)(A) of this rule that claim allowances based upon reductions in the consumption of electricity and that are sponsored by end-users or nonutility third parties receive allowances based upon the number of kilowatt hours of electricity saved during a control period and the following formula:

$$\text{Allowances} = (\text{kWS} \times 0.0015)/2,000$$

Where: Allowances = The number of allowances awarded to a project sponsor.

kWS = The number of kilowatt hours of electricity saved during an ozone control period by the project.

(B) Projects in section 2(38)(A) of this rule that claim allowances based upon reductions in the consumption of electricity and that are sponsored by electric generating units shall be awarded allowances according to the following formula:

$$\text{Allowances} = (\text{kWS} \times 0.00075)/2,000$$

Where: Allowances = The number of allowances awarded to a project sponsor.

kWS = The number of kilowatt hours of electricity saved during an ozone control period by the project.

(C) Projects in section 2(38)(A) of this rule that claim allowances based upon reductions in the consumption of energy other than electricity and that are not CAIR NO<sub>x</sub> ozone season units shall be awarded allowances according to the following formula:

$$\text{Allowances} = (((\text{Et1}/\text{Pt1}) - (\text{Et2}/\text{Pt2})) \times \text{Pt2} \times \text{NPt2} \times (\text{NPt1}/\text{NPt2}))/2,000$$

Where: Allowances = The number of allowances awarded to a project sponsor.

Et1 = Energy consumed per ozone control period before project implementation.

Pt1 = Units of product produced per ozone control period before project implementation.

Et2 = Energy consumed in the most recent ozone control period.

Pt2 = Units of product produced in the most recent ozone control period.

NPt1 = NO<sub>x</sub> produced during the consumption of energy, measured in pounds per million British thermal units before project implementation.

NPt2 = NO<sub>x</sub> produced during the consumption of energy, measured in pounds per million British thermal units in the most recent ozone control period.

(D) Projects in section 2(38)(A) of this rule that claim allowances based upon reductions in the consumption of energy other than electricity and that are CAIR NO<sub>x</sub> ozone season units shall be awarded allowances according to the following formula:

$$\text{Allowances} = (((\text{Et1}/\text{Pt1}) - (\text{Et2}/\text{Pt2})) \times \text{Pt2} \times \text{NPt2} \times (\text{NPt1}/\text{NPt2}) \times 0.5)/2,000$$

Where: Allowances = The number of allowances awarded to a project sponsor.

Et1 = Energy consumed per ozone control period before project implementation.

Pt1 = Units of product produced per ozone control period before project implementation.

Et2 = Energy consumed in the most recent ozone control period.

- Pt2 = Units of product produced in the most recent ozone control period.
- NPt1 =  $\text{NO}_x$  produced during the production process, measured in pounds per million British thermal units before project implementation.
- NPt2 =  $\text{NO}_x$  produced during the production process, measured in pounds per million British thermal units in the most recent ozone control period.

Product produced, as used in the formulas in this clause and clause (C), may include manufactured items; raw, intermediate, or final materials; or other products measured in discrete units and produced as a result of the consumption of energy in a specific process or piece of equipment. Claims for allowances must include documentation of  $\text{NO}_x$  emissions per British thermal unit both before and after implementation of the project for the energy-consuming process for which energy savings are claimed.

(E) Projects in section 2(38)(B) of this rule that claim allowances based upon highly efficient electricity generation using systems such as combined cycle, microturbines, and fuel cell systems for the predominant use of a single end user, that meet the thresholds specified in section 2(38)(B) of this rule, that are not CAIR  $\text{NO}_x$  ozone season units under section 1 of this rule or large affected units as defined in section 2 of this rule, and that are sponsored by end-users or nonutility third parties, receive allowances based upon the net amount of electricity generated during a control period and the following formula:

$$\text{Allowances} = (\text{kWG} \times (0.0015 - \text{NO}_x)) / 2,000$$

- Where: Allowances = The number of allowances awarded to a project sponsor.
- kWG = The number of net kilowatt hours of electricity generated during an ozone control period by the project.
- $\text{NO}_x$  = The amount of  $\text{NO}_x$  produced during the generation of electricity, measured in pounds per kilowatt hour.

(F) Projects in section 2(38)(B) of this rule that claim allowances based upon highly efficient combined heat and power systems for the predominant use of a single end user, that meet the thresholds specified in section 2(38)(B) of this rule, that are not CAIR  $\text{NO}_x$  ozone season units under section 1 of this rule or large affected units as defined in section 2 of this rule, and that are sponsored by end-users or nonutility third parties, receive allowances based upon the net amount of energy generated and used during an ozone control period and the following formula:

$$\text{Allowances} = (\text{NO}_{x \text{ conventional}} - \text{NO}_{x \text{ CHP}}) / 2,000$$

- Where: Allowances = The number of allowances awarded to a project sponsor.
- $\text{NO}_{x \text{ conventional}}$  =  $[(0.15 \times 3,412 \times \text{kWG} / 0.34) + (0.17 \times \text{HeatOut} / 0.8)] / 1,000,000$
- $\text{NO}_{x \text{ CHP}}$  =  $(\text{BtuIn} \times \text{NO}_x \text{ Rate}) / 1,000,000$
- Where:
- kWG = The number of net kilowatt hours of electricity generated during an ozone control period by the project.
  - HeatOut = The number of British thermal units (Btu) of heat or steam effectively used for space, water, or industrial process heat during an ozone control period by the project.
  - $\text{NO}_x \text{ Rate}$  =  $\text{NO}_x$  emitted during normal system operation by the project, measured in pounds per million Btu of fuel input.
  - BtuIn = The number of British thermal units (Btu) of fuel used to produce electricity, heat, or steam during an ozone control period by the project.

(G) Projects in section 2(38)(B) and 2(38)(G) of this rule receive allowances based upon the number of kilowatt hours of electricity each project generates during an ozone control period. Highly efficient electricity generation projects using systems such as combined cycle, microturbines, and fuel cell systems for the predominant use of a single end user, that meet a rated energy efficiency threshold of sixty percent (60%) for combined cycle systems and forty percent (40%) for microturbines and fuel cells; or integrated gasification combined cycle, and that are sponsored by  $\text{NO}_x$  allowance account holders that own or operate units that produce electricity and are subject to the emission limitations of this rule receive allowances based upon the net amount of electricity generated during an ozone control period and the following formula:

$$\text{Allowances} = (\text{kWG} \times (0.0015 - \text{NO}_x) \times 0.5) / 2,000$$

- Where: Allowances = The number of allowances awarded to a project sponsor.

**kWG** = The number of net kilowatt hours of electricity generated during an ozone control period by the project.

**NO<sub>x</sub>** = The amount of NO<sub>x</sub> produced during the generation of electricity, measured in pounds per kilowatt hour.

(H) Projects in section 2(38)(C) and 2(38)(D) of this rule receive allowances based upon the number of kilowatt hours of electricity each project generates during an ozone control period and according to the following formula:

$$\text{Allowances} = (\text{kWG} \times 0.0015) / 2,000$$

Where: **Allowances** = The number of allowances awarded to a project sponsor.

**kWG** = The number of kilowatt hours of electricity generated during an ozone control period by the project.

(I) Projects in section 2(38)(E), 2(38)(G), and 2(38)(F) of this rule receive allowances based upon the difference in emitted NO<sub>x</sub> per megawatt hour of operation for units before and after replacement or improvement and according to the following formula:

$$\text{Allowances} = ((\text{Et1} - \text{Et2}) \times h) \times 0.5 / 2,000$$

Where: **Allowances** = The number of allowances awarded to a project sponsor.

**Et1** = The emission rate in pounds per megawatt hour of NO<sub>x</sub> of the unit before improvement or replacement.

**Et2** = The emission rate in pounds per megawatt hour of NO<sub>x</sub> of the unit after improvement or replacement.

**h** = The number of megawatt hours of operation during the ozone control period.

(J) Projects in section 2(38)(A) of this rule that claim allowances based upon reductions in the consumption of electricity and that are large affected units shall be awarded allowances according to the following formula:

$$\text{Allowances} = (\text{kWS} \times \text{NO}_x \times 0.5) / 2,000$$

Where: **Allowances** = The number of allowances awarded to a project sponsor.

**kWS** = The number of kilowatt hours of electricity saved during an ozone control period by the project.

**NO<sub>x</sub>** = The amount of NO<sub>x</sub> produced during the generation of electricity, measured in pounds per kilowatt hour.

(K) Projects in section 2(38)(A) of this rule based upon energy efficiency other than electricity savings shall be awarded allowances according to the following formula:

$$\text{Allowances} = (\text{NO}_x \text{ Rate} \times \text{HeatOut} / 0.8) / 1,000,000 / 2,000$$

Where: **Allowances** = The number of allowances awarded to a project sponsor.

**NO<sub>x</sub> Rate** = 0.17 lb/MMBtu or the actual NO<sub>x</sub> emission rate, whichever is greater.

**HeatOut** = The number of British thermal units (Btu) of heat or steam effectively used for space, water, or industrial process heat during an ozone control period by the project.

(L) Projects in section 2(38)(H) of this rule using renewable fuels to displace coal, natural gas, or oil combustion and reduce NO<sub>x</sub> emissions shall be awarded allowances according to the following formula:

$$\text{Allowances} = ((0.17 \times \text{Fuel-Input}) / 1,000,000) / 2,000$$

Where: **Allowances** = The number of allowances awarded to a project sponsor.

**Fuel-Input** = The amount of heat input, in Btu, from the renewable fuel.

(M) Projects in section 2(38)(B) of this rule that claim allowances based upon highly efficient combined heat and power systems for the predominant use of a single end user, that meet the thresholds specified in section 2(38)(B) of this rule, that are large affected units as defined in section 2 of this rule, receive allowances based upon the net amount of energy generated and used during an ozone control period and the following formula:

$$\text{Allowances} = ((\text{NO}_x \text{ conventional} - \text{NO}_x \text{ CHP}) / 2,000)$$

Where: **Allowances** = The number of allowances awarded to a project sponsor.

**NO<sub>x</sub> conventional** =  $[(0.15 \times 3,412 \times \text{kWG} / 0.34) + (0.17 \times \text{HeatOut} / 0.8)] / 1,000,000$

$$\text{NO}_x \text{ CHP} = (\text{BtuIn} \times \text{NO}_x \text{ Rate}) / 1,000,000$$

Where: kWG = The number of net kilowatt hours of electricity generated during an ozone control period by the project.

HeatOut = The number of British thermal units (Btu) of heat or steam effectively used for space, water, or industrial process heat during an ozone control period by the project.

$\text{NO}_x \text{ Rate}$  =  $\text{NO}_x$  emitted during normal system operation by the project, measured in pounds per million Btu of fuel input.

BtuIn = The number of British thermal units (Btu) of fuel used to produce electricity, heat, or steam during an ozone control period by the project.

(4) The department shall review, and reserve CAIR  $\text{NO}_x$  allowances pursuant to, each allowance allocation request by July 31 each year as follows:

(A) Upon receipt of the  $\text{NO}_x$  allowance allocation request, the department shall make any necessary adjustments to the request to ensure that the number of allowances specified in the request is consistent with the requirements of subdivision (3).

(B) If the energy efficiency and renewable energy allocation set-aside for the control period for which  $\text{NO}_x$  allowances are requested has an amount of  $\text{NO}_x$  allowances greater than or equal to the number requested, as adjusted under clause (A), the department shall reserve the amount of the  $\text{NO}_x$  allowances requested, as adjusted under clause (A), to the energy efficiency and renewable energy projects.

(C) If the energy efficiency and renewable energy allocation set-aside for the ozone control period for which  $\text{NO}_x$  allowances are requested has an amount of  $\text{NO}_x$  allowances less than the number requested, as adjusted under clause (A), but the new unit set-aside or hardship set-aside for large affected units is under-subscribed, the department shall reserve the amount of the  $\text{NO}_x$  allowances requested with the difference reserved from the new unit or hardship set-aside.

(D) If the energy efficiency and renewable energy allocation set-aside for the ozone control period for which  $\text{NO}_x$  allowances are requested has an amount of  $\text{NO}_x$  allowances less than the number requested, as adjusted under clause (A), and the new unit set-aside and hardship set-aside for large affected units are over-subscribed, the department shall reserve the allocation set-aside on a pro rata basis, except that allowances requested for projects under section 2(38)(A), 2(38)(C), 2(38)(D), and 2(38)(H) of this rule shall be reserved first, reserved for projects under section 2(38)(B) and 2(38)(G) of this rule second, reserved for projects under section 2(38)(E) of this rule third, and reserved for projects under section 2(38)(F) of this rule fourth.

(E) Any unreserved allowances shall be distributed as follows:

(i) Fifty percent (50%) of the unreserved allowances shall be retained by the state to fund a grant program for energy efficiency and renewable energy projects. The grant program projects do not need to meet the one (1) tons of  $\text{NO}_x$  emissions for singular or aggregated projects under subdivision (2).

(ii) Fifty percent (50%) of the unreserved allowances shall be returned to existing large affected units on a pro rata basis.

(5) After the completion of the control period for which CAIR ozone season  $\text{NO}_x$  allowances had been reserved, the project sponsor shall submit the results of the actual savings or generation by October 31 of that year. Allowances shall be awarded only after verification of project implementation and certification of energy, emission, or electricity savings, as appropriate. The department shall consult the office of the lieutenant governor concerning verification and certification.

(6) The department shall allocate the appropriate amount of CAIR  $\text{NO}_x$  allowances based on the review of the submittal of actual savings or generation results under subdivision (5) and notify the CAIR  $\text{NO}_x$  designated representative that submitted the request and the U.S. EPA of the number of  $\text{NO}_x$  allowances allocated for the control period by March 31 of each year. Any person to whom the department allocates  $\text{NO}_x$  allowances shall establish a general account under section 9(b) of this rule.

(j) The department shall make available CAIR  $\text{NO}_x$  ozone season allowances from the hardship set-aside for large affected units under section 1(a)(2) of this rule. The amount of CAIR  $\text{NO}_x$  ozone season allowances in the set-aside shall equal one hundred fifty (150) tons in 2010 and thereafter. The department shall allocate CAIR  $\text{NO}_x$  ozone season allowances as follows:

(1) The CAIR  $\text{NO}_x$  designated representative shall submit a request by May 1 of the year for which CAIR  $\text{NO}_x$  ozone season allowances are needed that includes the following:

(A) A demonstration that compliance with this rule absent hardship allowances could pose an unacceptable risk either to the source's own operation or its associated industry.



(B) A demonstration that the cost of compliance with the requirements in this rule will not be cost-effective without an allocation of hardship allowances. The owner or operator can show that it meets this cost factor if the unit's average cost of seasonal compliance with requirements in this rule will exceed two thousand four hundred dollars (\$2,400) per ton of NO<sub>x</sub> reduced. Such a showing can be based on cost methodology assessments or engineering studies which are reliably indicative of NO<sub>x</sub> compliance costs for these entities, including data produced through the use of the U.S. EPA Air Pollution Control Cost Manual.

(2) If the hardship set-aside for the control period for which NO<sub>x</sub> ozone season allowances are requested has an amount of NO<sub>x</sub> allowances less than the number requested, but the energy efficiency and renewable energy allocation set-aside or new unit set-aside for large affected units is under-subscribed, the department shall allocate the amount of the NO<sub>x</sub> ozone season allowances requested with the difference allocated from the energy efficiency and renewable energy allocation or new unit set-aside.

(3) If the hardship set-aside for the control period for which NO<sub>x</sub> ozone season allowances are requested has an amount of NO<sub>x</sub> allowances less than the number requested and the energy efficiency and renewable energy set-aside or new unit set-aside for large affected units is over-subscribed, the department shall allocate NO<sub>x</sub> allowances from the hardship set-aside on a pro rata basis.

(4) Any unallocated allowances shall be distributed to existing large affected units on a pro rata basis.

(5) Any transfer of allowances under this subsection shall be submitted to U.S. EPA by July 31 of each year.

\*These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.

(Air Pollution Control Board; [326 IAC 24-3-8](#))

#### [326 IAC 24-3-9](#) CAIR NO<sub>x</sub> ozone season allowance tracking system

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 9. (a) Except as provided in section 12(f)(7) of this rule, upon receipt of a complete certificate of representation under section 6(h) of this rule, the U.S. EPA will establish a compliance account for the CAIR NO<sub>x</sub> ozone season source for which the certificate of representation was submitted unless the source already has a compliance account.

(b) Any person may apply to open a general account for the purpose of holding and transferring CAIR NO<sub>x</sub> ozone season allowances. An application for a general account may designate one (1) and only one (1) CAIR authorized account representative and one (1) and only one (1) alternate CAIR authorized account representative who may act on behalf of the CAIR authorized account representative. The agreement by which the alternate CAIR authorized account representative is selected shall include a procedure for authorizing the alternate CAIR authorized account representative to act in lieu of the CAIR authorized account representative. The establishment of the general account shall be subject to the following:

(1) A complete application for a general account shall be submitted to the U.S. EPA and shall include the following elements in a format prescribed by the U.S. EPA:

(A) The following information concerning the CAIR authorized account representative and any alternate CAIR authorized account representative:

(i) Name.

(ii) Mailing address.

(iii) E-mail address, if any.

(iv) Telephone number.

(v) Facsimile transmission number, if any.

(B) Organization name and type of organization, if applicable.

(C) A list of all persons subject to a binding agreement for the CAIR authorized account representative and any alternate CAIR authorized account representative to represent their ownership interest with respect to the CAIR NO<sub>x</sub> ozone season allowances held in the general

account.

(D) The following certification statement by the CAIR authorized account representative and any alternate CAIR authorized account representative: "I certify that I was selected as the CAIR authorized account representative or the alternate CAIR authorized account representative, as applicable, by an agreement that is binding on all persons who have an ownership interest with respect to CAIR NO<sub>x</sub> ozone season allowances held in the general account. I certify that I have all the necessary authority to carry out my duties and responsibilities under the CAIR NO<sub>x</sub> ozone season trading program on behalf of such persons and that each such person shall be fully bound by my representations, actions, inactions, or submissions and by any order or decision issued to me by the U.S. EPA or a court regarding the general account."

(E) The signature of the CAIR authorized account representative and any alternate CAIR authorized account representative and the dates signed.

(F) Unless otherwise required by the department or the U.S. EPA, documents of agreement referred to in the application for a general account shall not be submitted to the department or the U.S. EPA. Neither the department nor the U.S. EPA shall be under any obligation to review or evaluate the sufficiency of such documents, if submitted.

(2) Upon receipt by the U.S. EPA of a complete application for a general account under subdivision (1), the following shall apply:

(A) The U.S. EPA will establish a general account for the person or persons for whom the application is submitted.

(B) The CAIR authorized account representative and any alternate CAIR authorized account representative for the general account shall represent and, by his or her representations, actions, inactions, or submissions, legally bind each person who has an ownership interest with respect to CAIR NO<sub>x</sub> ozone season allowances held in the general account in all matters pertaining to the CAIR NO<sub>x</sub> ozone season trading program, notwithstanding any agreement between the CAIR authorized account representative or any alternate CAIR authorized account representative and such person. Any such person shall be bound by any order or decision issued to the CAIR authorized account representative or any alternate CAIR authorized account representative by the U.S. EPA or a court regarding the general account.

(C) Any representation, action, inaction, or submission by any alternate CAIR authorized account representative shall be deemed to be a representation, action, inaction, or submission by the CAIR authorized account representative.

(D) Each submission concerning the general account shall be submitted, signed, and certified by the CAIR authorized account representative or any alternate CAIR authorized account representative for the persons having an ownership interest with respect to CAIR NO<sub>x</sub> ozone season allowances held in the general account. Each such submission shall include the following certification statement by the CAIR authorized account representative or any alternate CAIR authorized account representative: "I am authorized to make this submission on behalf of the persons having an ownership interest with respect to the CAIR NO<sub>x</sub> ozone season allowances held in the general account. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment."

(E) The U.S. EPA will accept or act on a submission concerning the general account only if the submission has been made, signed, and certified in accordance with clause (D).

(3) The following shall apply to changing the CAIR authorized account representative or alternate CAIR authorized account representative, and changes in persons with ownership interest:

(A) The CAIR authorized account representative for a general account may be changed at any time upon receipt by the U.S. EPA of a superseding complete application for a general account under subsection (b)(1). Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous CAIR authorized account representative before the time and date when the U.S. EPA receives the superseding application for a general account shall be binding on the new CAIR authorized account representative and the persons with an ownership interest with respect to the CAIR NO<sub>x</sub> ozone season allowances in the general account.

(B) The alternate CAIR authorized account representative for a general account may be changed at any time upon receipt by the U.S. EPA of a superseding complete application for a general account under subsection (b)(1). Notwithstanding any such change, all representations, actions, inactions, and submissions by the previous alternate CAIR authorized account representative before the time and date when the U.S. EPA receives the superseding application for a general account shall be

binding on the new alternate CAIR authorized account representative and the persons with an ownership interest with respect to the CAIR NO<sub>x</sub> ozone season allowances in the general account. (C) In the event a person having an ownership interest with respect to CAIR NO<sub>x</sub> ozone season allowances in the general account is not included in the list of such persons in the application for a general account, such person shall be deemed to be subject to and bound by the application for a general account, the representation, actions, inactions, and submissions of the CAIR authorized account representative and any alternate CAIR authorized account representative of the account, and the decisions and orders of the U.S. EPA or a court, as if the person were included in such list. (D) Within thirty (30) days following any change in the persons having an ownership interest with respect to CAIR NO<sub>x</sub> ozone season allowances in the general account, including the addition of a new person, the CAIR authorized account representative or any alternate CAIR authorized account representative shall submit a revision to the application for a general account amending the list of persons having an ownership interest with respect to the CAIR NO<sub>x</sub> ozone season allowances in the general account to include the change.

(4) Once a complete application for a general account under subdivision (1) has been submitted and received, the U.S. EPA will rely on the application unless and until a superseding complete application for a general account under subdivision (1) is received by the U.S. EPA.

(5) Except as provided in subdivision (3)(A) or (3)(B), no objection or other communication submitted to the U.S. EPA concerning the authorization, or any representation, action, inaction, or submission of the CAIR authorized account representative or any alternate CAIR authorized account representative for a general account shall affect any representation, action, inaction, or submission of the CAIR authorized account representative or any alternate CAIR authorized account representative or the finality of any decision or order by the U.S. EPA under the CAIR NO<sub>x</sub> ozone season trading program.

(6) The U.S. EPA will not adjudicate any private legal dispute concerning the authorization or any representation, action, inaction, or submission of the CAIR authorized account representative or any alternative CAIR authorized account representative for a general account, including private legal disputes concerning the proceeds of CAIR NO<sub>x</sub> ozone season allowance transfers.

(c) The U.S. EPA will assign a unique identifying number to each account established under subsection (a) or (b).

(d) Following the establishment of a CAIR NO<sub>x</sub> ozone season allowance tracking system account, all submissions to the U.S. EPA pertaining to the account, including, but not limited to, submissions concerning the deduction or transfer of CAIR NO<sub>x</sub> ozone season allowances in the account, shall be made only by the CAIR authorized account representative for the account.

(e) By September 30, 2007, the U.S. EPA will record in the CAIR NO<sub>x</sub> ozone season source's compliance account the CAIR NO<sub>x</sub> ozone season allowances allocated for the CAIR NO<sub>x</sub> ozone season units at the source, as submitted by the department in accordance with section 8(b)(1)(A) of this rule, for the control periods in 2010, 2011, 2012, 2013, and 2014.

(f) By December 1, 2008, and December 1 every six (6) years thereafter, the U.S. EPA will record in the CAIR NO<sub>x</sub> ozone season source's compliance account the CAIR NO<sub>x</sub> ozone season allowances allocated for the CAIR NO<sub>x</sub> ozone season units at the source, as submitted by the department in accordance with section 8(b)(1)(B) of this rule, for the control periods seven (7), eight (8), nine (9), ten (10), eleven (11), and twelve (12) years after the year of the allowance allocation.

(g) By September 1, 2009, and September 1 of each year thereafter, the U.S. EPA will record in the CAIR NO<sub>x</sub> ozone season source's compliance account the CAIR NO<sub>x</sub> ozone season allowances allocated for the CAIR NO<sub>x</sub> ozone season units at the source, as submitted by the department in accordance with section 8(b)(1)(C) of this rule, for the control period in the year of the applicable deadline for recordation under this subsection.

(h) When recording the allocation of CAIR NO<sub>x</sub> ozone season allowances for a CAIR NO<sub>x</sub> ozone season unit in a compliance account, the U.S. EPA will assign each CAIR NO<sub>x</sub> ozone season allowance a unique identification number that shall include digits identifying the year of the control period for which the CAIR NO<sub>x</sub> ozone season allowance is allocated.

(i) The CAIR NO<sub>x</sub> ozone season allowances are available to be deducted for compliance with a source's CAIR NO<sub>x</sub> ozone season emissions limitation for a control period in a given calendar year only if the CAIR NO<sub>x</sub> ozone season allowances:

- (1) were allocated for the control period in the year or a prior year; and
- (2) are held in the compliance account as of the allowance transfer deadline for the control period or are transferred into the compliance account by a CAIR NO<sub>x</sub> ozone season allowance transfer correctly submitted for recordation under section 10(a) through 10(d) of this rule by the allowance transfer deadline for the control period.

(j) The following shall apply to deductions for purposes of compliance with a source's emissions limitation:

(1) Following the recordation, in accordance with section 10(b) and 10(c) of this rule, of CAIR NO<sub>x</sub> ozone season allowance transfers submitted for recordation in a source's compliance account by the allowance transfer deadline for a control period, the U.S. EPA will deduct from the compliance account CAIR NO<sub>x</sub> ozone season allowances available under subsection (i) in order to determine whether the source meets the CAIR NO<sub>x</sub> ozone season emissions limitation for the control period in one (1) of the following ways:

(A) Until the amount of CAIR NO<sub>x</sub> ozone season allowances deducted equals the number of tons of total nitrogen oxides emissions, determined in accordance with section 11 of this rule, from all CAIR NO<sub>x</sub> ozone season units at the source for the control period.

(B) If there are insufficient CAIR NO<sub>x</sub> ozone season allowances to complete the deductions in clause (A), until no more CAIR NO<sub>x</sub> ozone season allowances available under subsection (i) remain in the compliance account.

(2) The CAIR authorized account representative for a source's compliance account may request that specific CAIR NO<sub>x</sub> ozone season allowances, identified by serial number, in the compliance account be deducted for emissions or excess emissions for a control period in accordance with subdivision (1), (4), or (5). Such request shall be submitted to the U.S. EPA by the allowance transfer deadline for the control period and include, in a format prescribed by the U.S. EPA, the identification of the CAIR NO<sub>x</sub> ozone season source and the appropriate serial numbers.

(3) The U.S. EPA will deduct CAIR NO<sub>x</sub> ozone season allowances under subdivision (1), (4), or (5) from the source's compliance account, in the absence of an identification or in the case of a partial identification of CAIR NO<sub>x</sub> ozone season allowances by serial number under subdivision (2), on a first-in, first-out (FIFO) accounting basis in the following order:

(A) Any CAIR NO<sub>x</sub> ozone season allowances that were allocated to the units at the source, in the order of recordation.

(B) Any CAIR NO<sub>x</sub> ozone season allowances that were allocated to any entity and transferred and recorded in the compliance account under section 10 of this rule, in the order of recordation.

(4) After making the deductions for compliance under subdivision (1) for a control period in a calendar year in which the CAIR NO<sub>x</sub> ozone season source has excess emissions, the U.S. EPA will deduct from the source's compliance account an amount of CAIR NO<sub>x</sub> ozone season allowances, allocated for the control period in the immediately following calendar year, equal to three (3) times the number of tons of the source's excess emissions.

(5) Any allowance deduction required under subdivision (4) shall not affect the liability of the owners and operators of the CAIR NO<sub>x</sub> ozone season source or the CAIR NO<sub>x</sub> ozone season units at the source for any fine, penalty, or assessment, or their obligation to comply with any other remedy, for the same violations, as ordered under the Clean Air Act or applicable state law.

(6) The U.S. EPA will record in the appropriate compliance account all deductions from such an account under subdivision (1), (4), and (5), and section 12 of this rule.

(7) The U.S. EPA may review and conduct independent audits concerning any submission under the CAIR NO<sub>x</sub> ozone season trading program and make appropriate adjustments of the information in the submissions.

(8) The U.S. EPA may deduct CAIR NO<sub>x</sub> ozone season allowances from or transfer CAIR NO<sub>x</sub> ozone season allowances to a source's compliance account based on the information in the submissions, as adjusted under subdivision (7), and record such deductions and transfers.

(k) CAIR NO<sub>x</sub> ozone season allowances may be banked for future use or transfer in a compliance account or a general account. Any CAIR NO<sub>x</sub> ozone season allowance that is held in a compliance account or a general account shall remain in such account unless and until the CAIR NO<sub>x</sub> ozone season allowance is deducted or transferred under subsection (i), (j), or (l) or section 10 or 12 of this rule.

(l) The U.S. EPA may, at its sole discretion and on its own motion, correct any error in any CAIR NO<sub>x</sub> ozone season allowance tracking system account. Within ten (10) business days of making such correction, the U.S. EPA will notify the CAIR authorized account representative for the account.

(m) The CAIR authorized account representative of a general account may submit to the U.S. EPA a request to close the account, which shall include a correctly submitted allowance transfer under section 10(a) through 10(d) of this rule for any CAIR NO<sub>x</sub> ozone season allowances in the account to one (1) or more other CAIR NO<sub>x</sub> ozone season allowance tracking system accounts.

(n) If a general account has no allowance transfers in or out of the account for a twelve (12) month period or longer and does not contain any CAIR NO<sub>x</sub> ozone season allowances, the U.S. EPA may notify the CAIR authorized account representative for the account that the account will be closed following twenty (20) business days after the notice is sent. The account will be closed after the twenty (20) day period unless, before the end of the twenty (20) day period, the U.S. EPA receives a correctly submitted transfer of CAIR NO<sub>x</sub> ozone season allowances into the account under section 10(a) through 10(d) of this rule or a statement submitted by the CAIR authorized account representative demonstrating to the satisfaction of the U.S. EPA good cause as to why the account should not be closed.

(Air Pollution Control Board; [326 IAC 24-3-9](#))

#### **[326 IAC 24-3-10](#) CAIR NO<sub>x</sub> ozone season allowance transfers**

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 10. (a) A CAIR authorized account representative seeking recordation of a CAIR NO<sub>x</sub> ozone season allowance transfer shall submit the transfer to the U.S. EPA. To be considered correctly submitted, the CAIR NO<sub>x</sub> ozone season allowance transfer shall include the following elements, in a format specified by the U.S. EPA:

- (1) The account numbers for both the transferor and transferee accounts.
- (2) The serial number of each CAIR NO<sub>x</sub> ozone season allowance that is in the transferor account and is to be transferred.
- (3) The name and signature of the CAIR authorized account representative of the transferor account and the date signed.

(b) Within five (5) business days, except as provided in subsection (c), of receiving a CAIR NO<sub>x</sub> ozone season allowance transfer, the U.S. EPA will record a CAIR NO<sub>x</sub> ozone season allowance transfer by moving each CAIR NO<sub>x</sub> ozone season allowance from the transferor account to the transferee account as specified by the request, provided the following:

- (1) The transfer is correctly submitted under subsection (a).
- (2) The transferor account includes each CAIR NO<sub>x</sub> ozone season allowance identified by serial number in the transfer.

(c) A CAIR NO<sub>x</sub> ozone season allowance transfer that is submitted for recordation after the allowance transfer deadline for a control period and that includes any CAIR NO<sub>x</sub> ozone season allowances allocated for any control period before such allowance transfer deadline will not be recorded until after the U.S. EPA completes the deductions under section 9(i) and 9(j) of this rule for the control period immediately before such allowance transfer deadline.

(d) Where a CAIR NO<sub>x</sub> ozone season allowance transfer submitted for recordation fails to meet the requirements of subsection (b), the U.S. EPA will not record such transfer.

(e) The following notification requirements shall apply to CAIR NO<sub>x</sub> allowance transfers:

- (1) Within five (5) business days of recordation of a CAIR NO<sub>x</sub> ozone season allowance transfer under subsections (b) and (c) the U.S. EPA will notify the CAIR authorized account representatives of both the transferor and transferee accounts.
- (2) Within ten (10) business days of receipt of a CAIR NO<sub>x</sub> ozone season allowance transfer that fails to

meet the requirements of subsection (b), the U.S. EPA will notify the CAIR authorized account representatives of both accounts subject to the transfer of the decision not to record the transfer and the reasons for such nonrecording.

(f) Nothing in this section shall preclude the submission of a CAIR NO<sub>x</sub> ozone season allowance transfer for recording following notification of nonrecording.

(Air Pollution Control Board; [326 IAC 24-3-10](#))

### [326 IAC 24-3-11](#) Monitoring and reporting requirements

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 11. (a) The owners and operators, and to the extent applicable, the CAIR designated representative, of a CAIR NO<sub>x</sub> ozone season unit, shall comply with the monitoring, record keeping, and reporting requirements as provided in this rule and in 40 CFR 75, Subpart H\*. For purposes of complying with such requirements, the definitions in section 2 of this rule and 40 CFR 72.2\* shall apply, and the terms affected unit, designated representative, and continuous emission monitoring system (CEMS) in 40 CFR 75\* shall be replaced by the terms CAIR NO<sub>x</sub> ozone season unit, CAIR designated representative, and continuous emission monitoring system (CEMS)\* respectively, as defined in section 2 of this rule. The owner or operator of a unit that is not a CAIR NO<sub>x</sub> ozone season unit but that is monitored under 40 CFR 75.72(b)(2)(ii)\* shall comply with the same monitoring, record keeping, and reporting requirements as a CAIR NO<sub>x</sub> ozone season unit.

(b) The owner or operator of each CAIR NO<sub>x</sub> ozone season unit shall do the following:

(1) Install all monitoring systems required under this section for monitoring NO<sub>x</sub> ozone season mass emissions and individual unit heat input. This includes all systems required to monitor NO<sub>x</sub> ozone season emission rate, NO<sub>x</sub> ozone season concentration, stack gas moisture content, stack gas flow rate, CO<sub>2</sub> or O<sub>2</sub> concentration, and fuel flow rate, as applicable, in accordance with 40 CFR 75.71\* and 40 CFR 75.72\*.

(2) Successfully complete all certification tests required under subsections (f) through (j) and meet all other requirements of this section and 40 CFR 75\* applicable to the monitoring systems under subdivision (1).

(3) Record, report, and quality-assure the data from the monitoring systems under subdivision (1).

(c) Except as provided in subsection (p), the owner or operator shall meet the monitoring system certification and other requirements of subsection (b)(1) and (b)(2) on or before the following dates. The owner or operator shall record, report, and quality-assure the data from the monitoring systems under subsection (b)(1) on and after the following dates:

(1) For the owner or operator of a CAIR NO<sub>x</sub> ozone season unit that commences commercial operation before July 1, 2007, by May 1, 2008.

(2) For the owner or operator of a CAIR NO<sub>x</sub> ozone season unit that commences commercial operation on or after July 1, 2007, and that reports on an annual basis under subsection (n)(3), by the later of the following dates:

(A) May 1, 2008.

(B) The earlier of:

(i) one hundred eighty (180) calendar days after the date on which the unit commences commercial operation; or

(ii) ninety (90) unit operating days after the date on which the unit commences commercial operation.

(3) For the owner or operator of a CAIR NO<sub>x</sub> ozone season unit that commences commercial operation on or after July 1, 2007, and that reports on a control period basis under subsection (n)(3)(B)(ii), by the later of the following dates:

(A) If the compliance date under clause (B) is not during a control period, May 1 immediately following the compliance date under clause (B).

(B) The earlier of:

(i) one hundred eighty (180) calendar days after the date on which the unit commences commercial



operation; or

(ii) ninety (90) unit operating days after the date on which the unit commences commercial operation.

(4) For the owner or operator of a CAIR NO<sub>x</sub> ozone season unit for which construction of a new stack or flue or installation of add-on NO<sub>x</sub> emission controls is completed after the applicable deadline under subdivisions (1), (2), (6), or (7) and that reports on an annual basis under subsection (n)(3), compliance by the earlier of:

(A) one hundred eighty (180) calendar days after the date on which emissions first exit to the atmosphere through the new stack or flue or add-on NO<sub>x</sub> emissions controls; or

(B) ninety (90) unit operating days after the date on which emissions first exit to the atmosphere through the new stack or flue or add-on NO<sub>x</sub> emissions controls.

(5) For the owner or operator of a CAIR NO<sub>x</sub> ozone season unit for which construction of a new stack or flue or installation of add-on NO<sub>x</sub> emission controls is completed after the applicable deadline under subdivision (1), (3), (6), or (7) and that reports on control period basis under subsection (n)(3)(B)(ii), by the later of the following dates:

(A) If the compliance date under clause (B) is not during a control period, May 1 immediately following the compliance date under clause (B).

(B) The earlier of:

(i) one hundred eighty (180) calendar days after the date on which emissions first exit to the atmosphere through the new stack or flue or add-on NO<sub>x</sub> emissions controls; or

(ii) ninety (90) unit operating days after the date on which emissions first exit to the atmosphere through the new stack or flue or add-on NO<sub>x</sub> emissions controls.

(6) Notwithstanding the dates in subdivisions (1) through (3), for the owner or operator of a unit for which a CAIR NO<sub>x</sub> ozone season opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under section 12 of this rule, by the date specified in section 12(f)(2) through 12(f)(4) of this rule.

(7) Notwithstanding the dates in subdivisions (1), (2), and (3), for the owner or operator of a CAIR NO<sub>x</sub> ozone season opt-in unit, by the date on which the CAIR NO<sub>x</sub> ozone season opt-in unit under section 12 of this rule enters the CAIR NO<sub>x</sub> ozone season trading program as provided in section 12(f)(9) of this rule.

(d) The owner or operator of a CAIR NO<sub>x</sub> ozone season unit that does not meet the applicable compliance date set forth in subsection (c) for any monitoring system under subsection (b)(1) shall, for each such monitoring system, determine, record, and report maximum potential or, as appropriate, minimum potential, values for NO<sub>x</sub> concentration, NO<sub>x</sub> emission rate, stack gas flow rate, stack gas moisture content, fuel flow rate, and any other parameters required to determine NO<sub>x</sub> mass emissions and heat input in accordance with 40 CFR 75.31(b)(2) or 40 CFR 75.31(c)(3)\*, 40 CFR 75, Appendix D, Section 2.4\*, or 40 CFR 75, Appendix E, Section 2.5\*, as applicable.

(e) The following shall apply to any monitoring system, alternative monitoring system, alternative reference method, or any other alternative for a CEMS required under this rule:

(1) No owner or operator of a CAIR NO<sub>x</sub> ozone season unit shall use any alternative monitoring system, alternative reference method, or any other alternative to any requirement of this section without having obtained prior written approval in accordance with subsection (o).

(2) No owner or operator of a CAIR NO<sub>x</sub> ozone season unit shall operate the unit so as to discharge, or allow to be discharged, NO<sub>x</sub> ozone season emissions to the atmosphere without accounting for all such emissions in accordance with the applicable provisions of this section and 40 CFR 75\*.

(3) No owner or operator of a CAIR NO<sub>x</sub> ozone season unit shall disrupt the continuous emission monitoring system, any portion thereof, or any other approved emission monitoring method, and thereby avoid monitoring and recording NO<sub>x</sub> ozone season mass emissions discharged into the atmosphere or heat input, except for periods of recertification or periods when calibration, quality assurance testing, or maintenance is performed in accordance with the applicable provisions of this section and 40 CFR 75\*.

(4) No owner or operator of a CAIR NO<sub>x</sub> ozone season unit shall retire or permanently discontinue use of the continuous emission monitoring system, any component thereof, or any other approved monitoring system under this section, except under any one (1) of the following circumstances:

(A) During the period that the unit is covered by an exemption under section 3 of this rule.

(B) The owner or operator is monitoring emissions from the unit with another certified monitoring system approved, in accordance with the applicable provisions of this section and 40 CFR 75\*, by the department for use at that unit that provides emission data for the same pollutant or parameter

as the retired or discontinued monitoring system.

(C) The CAIR designated representative submits notification of the date of certification testing of a replacement monitoring system for the retired or discontinued monitoring system in accordance with subsection (h)(3)(A).

(f) The owner or operator of a CAIR NO<sub>x</sub> ozone season unit shall be exempt from the initial certification requirements of this subsection and subsections (g) through (j) for a monitoring system under subsection (b)(1) if the following conditions are met:

(1) The monitoring system has been previously certified in accordance with 40 CFR 75\*.

(2) The applicable quality-assurance and quality-control requirements of 40 CFR 75.21\*, 40 CFR 75, Appendix B\*, 40 CFR 75, Appendix D\*, and 40 CFR 75, Appendix E\* are fully met for the certified monitoring system described in subdivision (1).

The recertification provisions of this subsection and subsections (g) through (j) shall apply to a monitoring system under subsection (b)(1) exempt from initial certification requirements under this subsection.

(g) If the U.S. EPA has previously approved a petition under 40 CFR 75.17(a)\* or 40 CFR 75.17(b)\* for apportioning the NO<sub>x</sub> emission rate measured in a common stack or a petition under 40 CFR 75.66\* for an alternative to a requirement in 40 CFR 75.12\* or 40 CFR 75.17\*, the CAIR designated representative shall resubmit the petition to the U.S. EPA under subsection (o)(1) to determine whether the approval applies under the CAIR NO<sub>x</sub> ozone season trading program.

(h) Except as provided in subsection (f), the owner or operator of a CAIR NO<sub>x</sub> ozone season unit shall comply with the following initial certification and recertification procedures for a continuous monitoring system (that is, a continuous emission monitoring system and an excepted monitoring system under 40 CFR 75, Appendix D\* and 40 CFR 75, Appendix E\*) under subsection (b)(1). The owner or operator of a unit that qualifies to use the low mass emissions accepted monitoring methodology under 40 CFR 75.19\* or that qualifies to use an alternative monitoring system under 40 CFR 75, Subpart E\* shall comply with the procedures in subsection (i) or (j) respectively:

(1) The owner or operator shall ensure that each continuous monitoring system under subsection (b)(1), including the automated data acquisition and handling system, successfully completes all of the initial certification testing required under 40 CFR 75.20\* by the applicable deadline in subsection (c). In addition, whenever the owner or operator installs a monitoring system to meet the requirements of this section in a location where no such monitoring system was previously installed, initial certification in accordance with 40 CFR 75.20\* is required.

(2) Whenever the owner or operator makes a replacement, modification, or change in any certified continuous emission monitoring system under subsection (b)(1) that may significantly affect the ability of the system to accurately measure or record NO<sub>x</sub> mass emissions or heat input rate or to meet the quality-assurance and quality-control requirements of 40 CFR 75.21\* or 40 CFR 75, Appendix B\*, the owner or operator shall recertify the monitoring system in accordance with 40 CFR 75.20(b)\*. Furthermore, whenever the owner or operator makes a replacement, modification, or change to the flue gas handling system or the unit's operation that may significantly change the stack flow or concentration profile, the owner or operator shall recertify each continuous emission monitoring system whose accuracy is potentially affected by the change, in accordance with 40 CFR 75.20(b)\*. Examples of changes to a continuous emission monitoring system that require recertification include replacement of the analyzer, complete replacement of an existing continuous emission monitoring system, or change in location or orientation of the sampling probe or site. Any fuel flowmeter system, and any excepted NO<sub>x</sub> monitoring system under 40 CFR 75, Appendix E\*, under subsection (b)(1) are subject to the recertification requirements in 40 CFR 75.20(g)(6)\*.

(3) Clauses (A) through (D) apply to both initial certification and recertification of a continuous monitoring system under subsection (b)(1). For recertifications, replace the words certification and initial certification with the word recertification, replace the word certified with the word recertified, and follow the procedures in 40 CFR 75.20(b)(5)\* and 40 CFR 75.20(g)(7)\* in lieu of the procedures in clause (E). Requirements for the certification approval process for initial certification and recertification, and loss of certification are as follows:

(A) The CAIR designated representative shall submit to the department, the appropriate EPA Regional Office, and the U.S. EPA written notice of the dates of certification testing, in accordance with subsection (m).

(B) The CAIR designated representative shall submit to the department a certification application for each monitoring system. A complete certification application shall include the information specified

in 40 CFR 75.63\*.

(C) The provisional certification date for a monitoring system shall be determined in accordance with 40 CFR 75.20(a)(3)\*. A provisionally certified monitoring system may be used under the CAIR NO<sub>x</sub> ozone season trading program for a period not to exceed one hundred twenty (120) days after receipt by the department of the complete certification application for the monitoring system under clause (B). Data measured and recorded by the provisionally certified monitoring system, in accordance with the requirements of 40 CFR 75\*, shall be considered valid quality-assured data, retroactive to the date and time of provisional certification, provided that the department does not invalidate the provisional certification by issuing a notice of disapproval within one hundred twenty (120) days of the date of receipt of the complete certification application by the department.

(D) The department shall issue a written notice of approval or disapproval of the certification application to the owner or operator within one hundred twenty (120) days of receipt of the complete certification application under clause (B). In the event the department does not issue such a notice within such one hundred twenty (120) day period, each monitoring system that meets the applicable performance requirements of 40 CFR 75\* and is included in the certification application shall be deemed certified for use under the CAIR NO<sub>x</sub> ozone season trading program. The issuance of notices shall be as follows:

- (i) If the certification application is complete and shows that each monitoring system meets the applicable performance requirements of 40 CFR 75\*, then the department shall issue a written notice of approval of the certification application within one hundred twenty (120) days of receipt.
- (ii) If the certification application is not complete, then the department shall issue a written notice of incompleteness that sets a reasonable date by which the CAIR designated representative must submit the additional information required to complete the certification application. If the CAIR designated representative does not comply with the notice of incompleteness by the specified date, then the department may issue a notice of disapproval under item (iii). The one hundred twenty (120) day review period shall not begin before receipt of a complete certification application.
- (iii) If the certification application shows that any monitoring system does not meet the performance requirements of 40 CFR 75\* or if the certification application is incomplete and the requirement for disapproval under item (ii) is met, then the department shall issue a written notice of disapproval of the certification application. Upon issuance of such notice of disapproval, the provisional certification is invalidated by the department and the data measured and recorded by each uncertified monitoring system shall not be considered valid quality-assured data beginning with the date and hour of provisional certification, as defined under 40 CFR 75.20(a)(3)\*. The owner or operator shall follow the procedures for loss of certification in clause (E) for each monitoring system that is disapproved for initial certification.
- (iv) The department or, for a CAIR NO<sub>x</sub> ozone season opt-in unit or a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under section 12 of this rule, the U.S. EPA may issue a notice of disapproval of the certification status of a monitor in accordance with subsection (I).

(E) If the department or the U.S. EPA issues a notice of disapproval of a certification application under clause (D)(iii) or a notice of disapproval of certification status under clause (D)(iv), then the following shall apply:

- (i) The owner or operator shall substitute the following values, for each disapproved monitoring system, for each hour of unit operation during the period of invalid data specified under 40 CFR 75.20(a)(4)(iii)\*, 40 CFR 75.20(g)(7)\*, or 40 CFR 75.21(e)\* and continuing until the applicable date and hour specified under 40 CFR 75.20(a)(5)(i)\* or 40 CFR 75.20(g)(7)\*:
  - (AA) For a disapproved NO<sub>x</sub> emission rate, NO<sub>x</sub>-diluent, system, the maximum potential NO<sub>x</sub> emission rate, as defined in 40 CFR 72.2\*.
  - (BB) For a disapproved NO<sub>x</sub> pollutant concentration monitor and disapproved flow monitor, respectively, the maximum potential concentration of NO<sub>x</sub> and the maximum potential flow rate, as defined in 40 CFR 75, Appendix A, Sections 2.1.2.1 and 2.1.4.1\*.
  - (CC) For a disapproved moisture monitoring system and disapproved diluent gas monitoring system, respectively, the minimum potential moisture percentage and either the maximum potential CO<sub>2</sub> concentration or the minimum potential O<sub>2</sub> concentration, as applicable, as defined in 40 CFR 75, Appendix A, Sections 2.1.5, 2.1.3.1, and 2.1.3.2\*.
  - (DD) For a disapproved fuel flowmeter system, the maximum potential fuel flow rate, as defined in 40 CFR 75, Appendix D, Section 2.4.2.1\*.
  - (EE) For a disapproved excepted NO<sub>x</sub> ozone season monitoring system under 40 CFR 75, Appendix E, the fuel-specific maximum potential NO<sub>x</sub> ozone season emission rate, as defined in 40 CFR 72.2\*.
- (ii) The CAIR designated representative shall submit a notification of certification retest dates and a

new certification application in accordance with clauses (A) and (B).

(iii) The owner or operator shall repeat all certification tests or other requirements that were failed by the monitoring system, as indicated in the department's or the U.S. EPA's notice of disapproval, not later than thirty (30) unit operating days after the date of issuance of the notice of disapproval.

(i) The owner or operator of a unit qualified to use the low mass emissions (LME) excepted methodology under 40 CFR 75.19\* shall meet the applicable certification and recertification requirements in 40 CFR 75.19(a)(2)\* and 40 CFR 75.20(h)\*. If the owner or operator of such a unit elects to certify a fuel flowmeter system for heat input determination, the owner or operator shall also meet the certification and recertification requirements in 40 CFR 75.20(g)\*.

(j) The CAIR designated representative of each unit for which the owner or operator intends to use an alternative monitoring system approved by the U.S. EPA and, if applicable, the department under 40 CFR 75, Subpart E\* shall comply with the applicable notification and application procedures of 40 CFR 75.20(f)\*.

(k) Whenever any monitoring system fails to meet the quality-assurance and quality-control requirements or data validation requirements of 40 CFR 75\*, data shall be substituted using the applicable missing data procedures in 40 CFR, Subpart D\*, 40 CFR 75, Subpart H\*, 40 CFR 75, Appendix D\*, or 40 CFR 75, Appendix E\*.

(l) Whenever both an audit of a monitoring system and a review of the initial certification or recertification application reveal that any monitoring system should not have been certified or recertified because it did not meet a particular performance specification or other requirement under subsections (f) through (j) or the applicable provisions of 40 CFR 75\*, both at the time of the initial certification or recertification application submission and at the time of the audit, the department or, for a CAIR NO<sub>x</sub> ozone season opt-in unit or a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under section 12 of this rule, the U.S. EPA will issue a notice of disapproval of the certification status of such monitoring system. For the purposes of this subsection and subsection (k), an audit shall be either a field audit or an audit of any information submitted to the department or the U.S. EPA. By issuing the notice of disapproval, the department or the U.S. EPA revokes prospectively the certification status of the monitoring system. The data measured and recorded by the monitoring system shall not be considered valid quality-assured data from the date of issuance of the notification of the revoked certification status until the date and time that the owner or operator completes subsequently approved initial certification or recertification tests for the monitoring system. The owner or operator shall follow the applicable initial certification or recertification procedures in subsections (f) through (j) for each disapproved monitoring system.

(m) The CAIR designated representative for a CAIR NO<sub>x</sub> ozone season unit shall submit written notice to the department and the U.S. EPA in accordance with 40 CFR 75.61\*.

(n) The CAIR designated representative shall comply with all record keeping and reporting requirements in this subsection, the applicable record keeping and reporting requirements under 40 CFR 75.73\*, and the requirements of section 6(e)(1) of this rule as follows:

(1) The owner or operator of a CAIR NO<sub>x</sub> ozone season unit shall comply with requirements of 40 CFR 75.73(c)\* and 40 CFR 75.73(e)\* and, for a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under section 12 of this rule.

(2) The CAIR designated representative shall submit an application to the department within forty (45) days after completing all initial certification or recertification tests required under subsections (f) through (j), including the information required under 40 CFR 75.63\*.

(3) The CAIR designated representative shall submit quarterly reports as follows:

(A) If the CAIR NO<sub>x</sub> ozone season unit is subject to an acid rain emissions limitation or a CAIR NO<sub>x</sub> emissions limitation or if the owner or operator of such unit chooses to report on an annual basis under this section, the CAIR designated representative shall meet the requirements of 40 CFR 75, Subpart H\*, concerning monitoring of NO<sub>x</sub> mass emissions, for such unit for the entire year and shall report the NO<sub>x</sub> mass emissions data and heat input data for such unit, in a format prescribed by the U.S. EPA, for each calendar quarter beginning with:

(i) for a unit that commences commercial operation before July 1, 2007, the calendar quarter

covering May 1, 2008, through June 30, 2008;

(ii) for a unit that commences commercial operation on or after July 1, 2007, the calendar quarter corresponding to the earlier of the date of provisional certification or the applicable deadline for initial certification under subsection (c), unless that quarter is the third or fourth quarter of 2007, in which case reporting shall commence in the quarter covering May 1, 2008, through June 30, 2008;

(iii) notwithstanding items (i) and (ii), for a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under section 12 of this rule, the calendar quarter corresponding to the date specified in section 12(f)(2), 12(f)(3), and 12(f)(4) of this rule; and

(iv) notwithstanding items (i) and (ii), for a CAIR NO<sub>x</sub> opt-in unit under section 12 of this rule, the calendar quarter corresponding to the date on which the CAIR NO<sub>x</sub> opt-in unit enters the CAIR NO<sub>x</sub> annual trading program as provided in section 12(f)(9) of this rule.<sup>x</sup>

(B) If the CAIR NO<sub>x</sub> ozone season unit is not subject to an acid rain emissions limitation or a CAIR NO<sub>x</sub> emissions limitation, then the CAIR designated representative shall meet either of the following:

(i) Meet the requirements of 40 CFR 75, Subpart H\*, concerning monitoring of NO<sub>x</sub> mass emissions, for such unit for the entire year and report the NO<sub>x</sub> mass emissions data and heat input data for such unit in accordance with clause (A).

(ii) Meet the requirements of 40 CFR 75, Subpart H\* for the control period, including the requirements in 40 CFR 75.74(c)\*, and report NO<sub>x</sub> mass emissions data and heat input data, including the data described in 40 CFR 75.74(c)(6)\*, for such unit only for the control period of each year and report, in an electronic quarterly report in a format prescribed by the U.S. EPA, for each calendar quarter beginning with:

(AA) for a unit that commences commercial operation before July 1, 2007, the calendar quarter covering May 1, 2008 through June 30, 2008;

(BB) for a unit that commences commercial operation on or after July 1, 2007, the calendar quarter corresponding to the earlier of the date of provisional certification or the applicable deadline for initial certification under subsection (c), unless that date is not during a control period, in which case reporting shall commence in the quarter that includes May 1 through June 30 of the first control period after such date;

(CC) notwithstanding subitems (AA) and (BB), for a unit for which a CAIR opt-in permit application submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under section 12 of this rule, the calendar quarter corresponding to the date specified in section 12(f)(2), 12(f)(3), and 12(f)(4) of this rule; and

(DD) notwithstanding items (i) and (ii), for a CAIR NO<sub>x</sub> opt-in unit under section 12 of this rule, the calendar quarter corresponding to the date on which the CAIR NO<sub>x</sub> opt-in unit enters the CAIR NO<sub>x</sub> annual trading program as provided in section 12(f)(9) of this rule.<sup>x</sup>

(C) The CAIR designated representative shall submit each quarterly report to the U.S. EPA within thirty (30) days following the end of the calendar quarter covered by the report. Quarterly reports shall be submitted in the manner specified in 40 CFR 75.73(f)\*.

(D) For CAIR NO<sub>x</sub> ozone season units that are also subject to an acid rain emissions limitation or the CAIR NO<sub>x</sub> ozone season trading program, CAIR SO<sub>2</sub> trading program, or mercury budget trading program,<sup>x</sup> quarterly reports shall include the applicable data and information required by 40 CFR 75, Subparts F through I\* as applicable, in addition to the NO<sub>x</sub> mass emission data, heat input data, and other information required by this subpart.

(4) The CAIR designated representative shall submit to the U.S. EPA a compliance certification, in a format prescribed by the U.S. EPA in support of each quarterly report based on reasonable inquiry of those persons with primary responsibility for ensuring that all of the unit's emissions are correctly and fully monitored. The certification shall state that:

(A) the monitoring data submitted were recorded in accordance with the applicable requirements of this section and 40 CFR 75\*, including the quality assurance procedures and specifications;

(B) for a unit with add-on NO<sub>x</sub> ozone season emission controls and for all hours where NO<sub>x</sub> data are substituted in accordance with 40 CFR 75.34(a)(1)\*, the add-on emission controls were operating within the range of parameters listed in the quality assurance/quality control program under 40 CFR 75, Appendix B\* and the substitute data values do not systematically underestimate NO<sub>x</sub> emissions; and

(C) for a unit that is reporting on a control period basis under subdivision 3(B)(ii), the NO<sub>x</sub> mass emission rate and NO<sub>x</sub> concentration values substituted for missing data under 40 CFR 75, Subpart D\* are calculated using only values from a control period and do not systematically underestimate NO<sub>x</sub> emissions.

(o) A petition requesting approval of alternatives to any requirement of this section may be made as follows:

- (1) Except as provided in subdivision (3), the CAIR NO<sub>x</sub> ozone season unit that is subject to an acid rain emissions limitation may submit a petition under 40 CFR 75.66\* to the U.S. EPA requesting approval to apply an alternative to any requirement of this section. Application of an alternative to any requirement of this section is in accordance with this section only to the extent that the petition is approved in writing by the U.S. EPA, in consultation with the department.
- (2) The CAIR designated representative of a CAIR NO<sub>x</sub> ozone season unit that is not subject to an acid rain emissions limitation may submit a petition under 40 CFR 75.66\* to the department and the U.S. EPA requesting approval to apply an alternative to any requirement of this section. Application of an alternative to any requirement of this section is in accordance with this section only to the extent that the petition is approved in writing by both the department and the U.S. EPA.
- (3) The CAIR designated representative of a CAIR NO<sub>x</sub> ozone season unit that is subject to an acid rain emissions limitation may submit a petition under 40 CFR 75.66\* to the department and the U.S. EPA requesting approval to apply an alternative to a requirement concerning any additional continuous emission monitoring system required under 40 CFR 75.72\*. Application of an alternative to any such requirement is in accordance with this subpart only to the extent that the petition is approved in writing by both the department and the U.S. EPA.

(p) The owner or operator of a CAIR NO<sub>x</sub> unit is subject to the applicable provisions of 40 CFR 75\* concerning units in long-term cold storage.

\*These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.

(Air Pollution Control Board; [326 IAC 24-3-11](#))

#### [326 IAC 24-3-12](#) CAIR NO<sub>x</sub> ozone season opt-in units

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 12. (a) A CAIR NO<sub>x</sub> ozone season opt-in unit must be a unit that meets the following requirements:

- (1) Is located in Indiana.
- (2) Is not a CAIR NO<sub>x</sub> ozone season unit under section 1 of this rule and is not covered by a retired unit exemption under section 3 of this rule that is in effect.
- (3) Is not covered by a retired unit exemption under 40 CFR 72.8\* that is in effect.
- (4) Has or is required or qualified to have a Part 70 operating permit or other federally enforceable permit.
- (5) Vents all of its emissions to a stack and can meet the monitoring, record keeping, and reporting requirements of section 11 of this rule.

(b) Except as otherwise provided sections 1, 2, 4 through 7, and 9 through 11 of this rule, a CAIR NO<sub>x</sub> ozone season opt-in unit shall be treated as a CAIR NO<sub>x</sub> ozone season unit for purposes of applying sections of this rule.

(c) Solely for purposes of applying, as provided in this section, the requirements of section 11 of this rule to a unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under this section, such unit shall be treated as a CAIR NO<sub>x</sub> ozone season unit before issuance of a CAIR opt-in permit for such unit.

(d) Any CAIR NO<sub>x</sub> opt-in unit, and any unit for which a CAIR opt-in permit application is submitted and not withdrawn and a CAIR opt-in permit is not yet issued or denied under this section, located at the same



source as one (1) or more CAIR NO<sub>x</sub> ozone season units shall have the same CAIR designated representative and alternate CAIR designated representative as such CAIR NO<sub>x</sub> ozone season units.

(e) The CAIR designated representative of a unit meeting the requirements for a CAIR NO<sub>x</sub> ozone season opt-in unit in subsection (a) may apply for an initial CAIR opt-in permit at any time, except as provided under subsection (h)(8) and (h)(9), and, in order to apply, must submit the following:

- (1) A complete CAIR permit application under section 7(c) of this rule.
- (2) A certification, in a format specified by the department, that the unit:
  - (A) is not a CAIR NO<sub>x</sub> ozone season unit under section 1 of this rule and is not covered by a retired unit exemption under section 3 of this rule that is in effect;
  - (B) is not covered by a retired unit exemption under 40 CFR 72.8\* that is in effect;
  - (C) vents all of its NO<sub>x</sub> emissions to a stack; and
  - (D) has documented heat input for more than eight hundred seventy-six (876) hours during the six (6) months immediately preceding submission of the CAIR permit application under section 7(c) of this rule.
- (3) A monitoring plan in accordance with section 11 of this rule.
- (4) A complete certificate of representation under section 6(h) of this rule consistent with subsection (d), if no CAIR designated representative has been previously designated for the source that includes the unit.
- (5) A statement, in a format specified by the department, whether the CAIR designated representative requests that the unit be allocated CAIR NO<sub>x</sub> ozone season allowances under subsection (j)(3) or (j)(4), subject to the conditions in subsections (f)(10) and (h)(8). If allocation under subsection (j)(4) is requested, this statement shall include a statement that the owners and operators of the unit intend to repower the unit before January 1, 2015, and that they will provide, upon request, documentation demonstrating such intent.

The CAIR designated representative of a CAIR NO<sub>x</sub> ozone season opt-in unit shall submit a complete CAIR permit application under section 7(c) of this rule to renew the CAIR NO<sub>x</sub> ozone season opt-in unit permit in accordance with the department's regulations for Part 70 operating permits, or the department's regulations for other federally enforceable permits if applicable, addressing permit renewal. Unless the department issues a notification of acceptance of withdrawal of the CAIR NO<sub>x</sub> ozone season opt-in unit from the CAIR NO<sub>x</sub> ozone season trading program in accordance with subsection (h) or the unit becomes a CAIR NO<sub>x</sub> ozone season unit under section 1 of this rule, the CAIR NO<sub>x</sub> ozone season opt-in unit shall remain subject to the requirements for a CAIR NO<sub>x</sub> ozone season opt-in unit, even if the CAIR designated representative for the CAIR NO<sub>x</sub> ozone season opt-in unit fails to submit a CAIR permit application that is required for renewal of the CAIR opt-in permit.

(f) The department shall issue or deny a CAIR opt-in permit for a unit for which an initial application for a CAIR opt-in permit under subsection (e) is submitted in accordance with the following:

- (1) The department and the U.S. EPA will determine, on an interim basis, the sufficiency of the monitoring plan accompanying the initial application for a CAIR opt-in permit under subsection (e). A monitoring plan is sufficient, for purposes of interim review, if the plan appears to contain information demonstrating that the NO<sub>x</sub> emissions rate and heat input of the unit and all other applicable parameters are monitored and reported in accordance with section 11 of this rule. A determination of sufficiency shall not be construed as acceptance or approval of the monitoring plan.
- (2) If the department and the U.S. EPA determine that the monitoring plan is sufficient under subdivision (1), the owner or operator shall monitor and report the NO<sub>x</sub> emissions rate and the heat input of the unit and all other applicable parameters, in accordance with section 11 of this rule, starting on the date of certification of the appropriate monitoring systems under section 11 of this rule and continuing until a CAIR opt-in permit is denied under subdivision (8) or, if a CAIR opt-in permit is issued, the date and time when the unit is withdrawn from the CAIR NO<sub>x</sub> ozone season trading program in accordance with subsection (h).
- (3) The monitoring and reporting under subdivision (2) shall include the entire control period immediately before the date on which the unit enters the CAIR NO<sub>x</sub> ozone season trading program under subdivision (9), during which period monitoring system availability must not be less than ninety percent (90%) under section 11 of this rule and the unit must be in full compliance with any applicable state or federal emissions or emissions-related requirements.
- (4) To the extent the NO<sub>x</sub> emissions rate and the heat input of the unit are monitored and reported in accordance with section 11 of this rule for one (1) or more control periods, in addition to the control period under subdivision (3), during which control periods monitoring system availability is not less than ninety percent (90%) under section 11 of this rule and the unit is in full compliance with any

- applicable state or federal emissions or emissions-related requirements and which control periods begin not more than three (3) years before the unit enters the CAIR NO<sub>x</sub> ozone season trading program under subdivision (9), such information shall be used as provided in subdivisions (5) and (6).
- (5) The unit's baseline heat rate shall equal one (1) of the following:
- (A) If the unit's NO<sub>x</sub> emissions rate and heat input are monitored and reported for only one (1) control period, in accordance with subdivisions (2) and (3), the unit's total heat input, in million British thermal units (MMBtu), for the control period.
  - (B) If the unit's NO<sub>x</sub> emissions rate and heat input are monitored and reported for more than one (1) control period, in accordance with subdivisions (2) through (4), the average of the amounts of the unit's total heat input, in million British thermal units (MMBtu), for the control periods under subdivisions (3) and (4).
- (6) The unit's baseline NO<sub>x</sub> emission rate shall equal one (1) of the following:
- (A) If the unit's NO<sub>x</sub> emissions rate and heat input are monitored and reported for only one (1) control period, in accordance with subdivisions (2) and (3), the unit's NO<sub>x</sub> emissions rate, in pounds per million British thermal units (lb/MMBtu), for the control period.
  - (B) If the unit's NO<sub>x</sub> emissions rate and heat input are monitored and reported for more than one (1) control period, in accordance with subdivisions (2) through (4), and the unit does not have add-on NO<sub>x</sub> emission controls during any such control periods, the average of the amounts of the unit's NO<sub>x</sub> emissions rate, in pounds per million British thermal units (lb/MMBtu), for the control periods under subdivisions (3) and (4).
  - (C) If the unit's NO<sub>x</sub> emissions rate and heat input are monitored and reported for more than one (1) control period, in accordance with subdivisions (2) through (4), and the unit has add-on NO<sub>x</sub> emission controls during any such control periods, the average of the amounts of the unit's NO<sub>x</sub> emissions rate, in pounds per million British thermal units (lb/MMBtu), for such control periods during which the unit has add-on NO<sub>x</sub> emission controls.
- (7) After calculating the baseline heat input and the baseline NO<sub>x</sub> emissions rate for the unit under subdivisions (5) and (6) and if the department determines that the CAIR designated representative shows that the unit meets the requirements for a CAIR NO<sub>x</sub> ozone season opt-in unit in subsection (a) and meets the elements certified in subsection (e)(2), the department shall issue a CAIR opt-in permit. The department shall provide a copy of the CAIR opt-in permit to the U.S. EPA, who will then establish a compliance account for the source that includes the CAIR NO<sub>x</sub> ozone season opt-in unit unless the source already has a compliance account.
- (8) Notwithstanding subdivisions (1) through (7), if at any time before issuance of a CAIR opt-in permit for the unit, the department determines that the CAIR designated representative fails to show that the unit meets the requirements for a CAIR NO<sub>x</sub> ozone season opt-in unit in subsection (a) or meets the elements certified in subsection (e)(2), the department shall issue a denial of a CAIR NO<sub>x</sub> ozone season opt-in permit for the unit.
- (9) A unit for which an initial CAIR opt-in permit is issued by the department shall become a CAIR NO<sub>x</sub> ozone season opt-in unit, and a CAIR NO<sub>x</sub> ozone season unit, as of the later of May 1, 2009, or May 1 of the first control period during which such CAIR opt-in permit is issued.
- (10) If the CAIR designated representative requests, and the department issues a CAIR opt-in permit providing for, allocation to a CAIR NO<sub>x</sub> ozone season opt-in unit of CAIR NO<sub>x</sub> ozone season allowances under subsection (j)(4) and such unit is repowered after its date of entry into the CAIR NO<sub>x</sub> ozone season trading program under subdivision (9), the repowered unit shall be treated as a CAIR NO<sub>x</sub> ozone season opt-in unit replacing the original CAIR NO<sub>x</sub> ozone season opt-in unit, as of the date of start-up of the repowered unit's combustion chamber. Notwithstanding subdivisions (5) and (6), as of the date of start-up, the repowered unit shall be deemed to have the same date of commencement of operation, date of commencement of commercial operation, baseline heat input, and baseline NO<sub>x</sub> ozone season emission rate as the original CAIR NO<sub>x</sub> ozone season opt-in unit, and the original CAIR NO<sub>x</sub> ozone season opt-in unit shall no longer be treated as a CAIR NO<sub>x</sub> ozone season opt-in unit or a CAIR NO<sub>x</sub> ozone season unit.
- (g) The following shall apply to the content of each CAIR opt-in permit:
- (1) Each opt-in permit shall contain the following:
- (A) All elements required for a complete CAIR permit application under section 7(c) of this rule.
  - (B) The certification in subsection (e)(2).
  - (C) The unit's baseline heat input under subsection (f)(5).
  - (D) The unit's baseline NO<sub>x</sub> ozone season emission rate under subsection (f)(6).
  - (E) A statement whether the unit is to be allocated CAIR NO<sub>x</sub> ozone season allowances under subsection (j)(3) or (j)(4), subject to the conditions in subsections (f)(10) and (h)(8).

(F) A statement that the unit may withdraw from the CAIR NO<sub>x</sub> ozone season trading program only in accordance with subsection (h).

(G) A statement that the unit is subject to, and the owners and operators of the unit must comply with the requirements of subsection (i).

(2) Each CAIR opt-in permit is deemed to incorporate automatically the definitions of terms under section 2 of this rule and, upon recordation by the U.S. EPA under this section and sections 9 and 10 of this rule, every allocation, transfer, or deduction of CAIR NO<sub>x</sub> ozone season allowances to or from the compliance account of the source that includes a CAIR NO<sub>x</sub> ozone season opt-in unit covered by the CAIR opt-in permit.

(3) The CAIR opt-in permit shall be included, in a format prescribed by the department, in the CAIR permit for the source where the CAIR NO<sub>x</sub> ozone season opt-in unit is located and in a Part 70 operating permit or FESOP.

(h) The following requirements must be satisfied in order to withdraw an opt-in unit from the CAIR NO<sub>x</sub> trading program:

(1) Except as provided under subdivision (8), a CAIR NO<sub>x</sub> ozone season opt-in unit may withdraw from the CAIR NO<sub>x</sub> ozone season trading program, but only if the department issues a notification to the CAIR designated representative of the CAIR NO<sub>x</sub> ozone season opt-in unit of the acceptance of the withdrawal of the CAIR NO<sub>x</sub> ozone season opt-in unit in accordance with subdivision (6).

(2) In order to withdraw a CAIR NO<sub>x</sub> ozone season opt-in unit from the CAIR NO<sub>x</sub> ozone season trading program, the CAIR designated representative of the CAIR NO<sub>x</sub> ozone season opt-in unit shall submit to the department a request to withdraw effective as of midnight of September 30 of a specified calendar year, which date must be at least four (4) years after September 30 of the year of entry into the CAIR NO<sub>x</sub> ozone season trading program under subsection (f)(9). The request must be submitted not later than ninety (90) days before the requested effective date of withdrawal.

(3) Before a CAIR NO<sub>x</sub> ozone season opt-in unit covered by a request under subdivision (1) may withdraw from the CAIR NO<sub>x</sub> ozone season trading program and the CAIR opt-in permit may be terminated under subdivision (7), the following conditions must be met:

(A) For the control period ending on the date on which the withdrawal is to be effective, the source that includes the CAIR NO<sub>x</sub> ozone season opt-in unit must meet the requirement to hold CAIR NO<sub>x</sub> ozone season allowances under section 4(c) of this rule and cannot have any excess emissions.

(B) After the requirement for withdrawal under clause (A) is met, the U.S. EPA will deduct from the compliance account of the source that includes the CAIR NO<sub>x</sub> ozone season opt-in unit CAIR NO<sub>x</sub> ozone season allowances equal in amount to and allocated for the same or a prior control period as any CAIR NO<sub>x</sub> ozone season allowances allocated to the CAIR NO<sub>x</sub> ozone season opt-in unit under section 12(j) of this rule for any control period for which the withdrawal is to be effective. If there are no remaining CAIR NO<sub>x</sub> ozone season units at the source, the U.S. EPA will close the compliance account, and the owners and operators of the CAIR NO<sub>x</sub> ozone season opt-in unit may submit a CAIR NO<sub>x</sub> ozone season allowance transfer for any remaining CAIR NO<sub>x</sub> ozone season allowances to another CAIR NO<sub>x</sub> ozone season allowance tracking system in accordance with section 10 of this rule.

(4) After the requirements for withdrawal under subdivisions (2) and (3) are met, including deduction of the full amount of CAIR NO<sub>x</sub> ozone season allowances required, the department shall issue a notification to the CAIR designated representative of the CAIR NO<sub>x</sub> ozone season opt-in unit of the acceptance of the withdrawal of the CAIR NO<sub>x</sub> ozone season opt-in unit as of midnight on September 30 of the calendar year for which the withdrawal was requested.

(5) If the requirements for withdrawal under subdivisions (2) and (3) are not met, the department shall issue a notification to the CAIR designated representative of the CAIR NO<sub>x</sub> ozone season opt-in unit that the CAIR NO<sub>x</sub> ozone season opt-in unit's request to withdraw is denied. Such CAIR NO<sub>x</sub> ozone season opt-in unit shall continue to be a CAIR NO<sub>x</sub> ozone season opt-in unit.

(6) After the department issues a notification under subdivision (4) that the requirements for withdrawal have been met, the department shall revise the CAIR permit covering the CAIR NO<sub>x</sub> ozone season opt-in unit to terminate the CAIR opt-in permit for such unit as of the effective date specified under subdivision (4). The unit shall continue to be a CAIR NO<sub>x</sub> ozone season opt-in unit until the effective date of the termination and shall comply with all requirements under the CAIR NO<sub>x</sub> ozone season trading program concerning any control periods for which the unit is a CAIR NO<sub>x</sub> ozone season opt-in unit, even if such requirements arise or must be complied with after the withdrawal takes effect.

(7) If the department denies the CAIR NO<sub>x</sub> ozone season opt-in unit's request to withdraw, the CAIR designated representative may submit another request to withdraw in accordance with subdivisions

(2) and (3).

(8) Notwithstanding subdivisions (1) through (7), a CAIR NO<sub>x</sub> ozone season opt-in unit shall not be eligible to withdraw from the CAIR NO<sub>x</sub> ozone season trading program if the CAIR designated representative of the CAIR NO<sub>x</sub> ozone season opt-in unit requests, and the department issues a CAIR NO<sub>x</sub> ozone season opt-in permit providing for, allocation to the CAIR NO<sub>x</sub> ozone season opt-in unit of CAIR NO<sub>x</sub> ozone season allowances under subsection (j)(4).

(9) Once a CAIR NO<sub>x</sub> ozone season opt-in unit withdraws from the CAIR NO<sub>x</sub> ozone season trading program and its CAIR opt-in permit is terminated under this section, the CAIR designated representative may not submit another application for a CAIR opt-in permit under subsection (e) for such CAIR NO<sub>x</sub> ozone season opt-in unit before the date that is four (4) years after the date on which the withdrawal became effective. Such new application for a CAIR opt-in permit shall be treated as an initial application for a CAIR opt-in permit under subsection (f).

(i) When a CAIR NO<sub>x</sub> ozone season opt-in unit becomes a CAIR NO<sub>x</sub> ozone season unit under section 1 of this rule, then the CAIR designated representative shall notify in writing, the department and the U.S. EPA of such change in the CAIR NO<sub>x</sub> ozone season opt-in unit's regulatory status, within thirty (30) days of such change. If there is a change in the regulatory status, the department and the U.S. EPA will take the following actions concerning the CAIR NO<sub>x</sub> opt-in source:

(1) When the CAIR NO<sub>x</sub> ozone season opt-in unit becomes a CAIR NO<sub>x</sub> ozone season unit under section 1 of this rule, the department shall revise the CAIR NO<sub>x</sub> ozone season opt-in unit's CAIR opt-in permit to meet the requirements of a CAIR permit under section 7(d) and (7)(e) of this rule, and remove the CAIR opt-in permit provisions, as of the date on which the CAIR NO<sub>x</sub> ozone season opt-in unit becomes a CAIR NO<sub>x</sub> ozone season unit under section 1 of this rule.

(2) The U.S. EPA will deduct from the compliance account of the source that includes the CAIR NO<sub>x</sub> ozone season opt-in unit that becomes a CAIR NO<sub>x</sub> ozone season unit under section 1 of this rule, CAIR NO<sub>x</sub> ozone season allowances equal in amount to, and allocated for, the same or a prior control period as follows:

(A) Any CAIR NO<sub>x</sub> ozone season allowances allocated to the CAIR NO<sub>x</sub> ozone season opt-in unit under subsection (j)(4) for any control period after the date on which the CAIR NO<sub>x</sub> ozone season opt-in unit becomes a CAIR NO<sub>x</sub> ozone season unit under section 1 of this rule.

(B) If the date on which the CAIR NO<sub>x</sub> ozone season opt-in unit becomes a CAIR NO<sub>x</sub> ozone season unit under section 1 of this rule is not September 30, the CAIR NO<sub>x</sub> ozone season allowances allocated to the CAIR NO<sub>x</sub> ozone season opt-in unit under section 12(j) of this rule for the control period that includes the date on which the CAIR NO<sub>x</sub> ozone season opt-in unit becomes a CAIR NO<sub>x</sub> ozone season unit under section 1 of this rule, multiplied by the ratio of the number of days, in the control period, starting with the date on which the CAIR NO<sub>x</sub> ozone season opt-in unit becomes a CAIR NO<sub>x</sub> ozone season unit under section 1 of this rule divided by the total number of days in the control period and rounded to the nearest whole allowance as appropriate.

(3) The CAIR designated representative shall ensure that the compliance account of the source that includes the CAIR NO<sub>x</sub> ozone season unit that becomes a CAIR NO<sub>x</sub> ozone season unit under section 1 of this rule contains the CAIR NO<sub>x</sub> ozone season allowances necessary for completion of the deduction under subdivision (2).

(4) For every control period after the date on which the CAIR NO<sub>x</sub> ozone season opt-in unit becomes a CAIR NO<sub>x</sub> ozone season unit under section 1 of this rule, the CAIR NO<sub>x</sub> ozone season opt-in unit shall be allocated CAIR NO<sub>x</sub> ozone season allowances under section 8(c) of this rule.

(5) Notwithstanding subdivision (4), if the date on which the CAIR NO<sub>x</sub> ozone season opt-in unit becomes a CAIR NO<sub>x</sub> ozone season unit under section 1 of this rule is not January 1, the following amount of CAIR NO<sub>x</sub> ozone season allowances shall be allocated to the CAIR NO<sub>x</sub> ozone season opt-in unit, as a CAIR NO<sub>x</sub> ozone season unit, under section 8(c) of this rule for the control period that includes the date on which the CAIR NO<sub>x</sub> ozone season opt-in unit becomes a CAIR NO<sub>x</sub> ozone season unit under section 1 of this rule:

(A) the amount of CAIR NO<sub>x</sub> ozone season allowances otherwise allocated to the CAIR NO<sub>x</sub> ozone season opt-in unit, as a CAIR NO<sub>x</sub> ozone season unit, under section 8(c) of this rule for the control period;

(B) multiplied by the ratio of the number of days, in the control period, starting with the date on which the CAIR NO<sub>x</sub> ozone season opt-in unit becomes a CAIR NO<sub>x</sub> ozone season unit under section 1 of this rule, divided by the total number of days in the control period; and

(C) rounded to the nearest whole allowance, as appropriate.

(j) The department shall allocate CAIR NO<sub>x</sub> allowances to CAIR NO<sub>x</sub> opt-in sources as follows:

- (1) When the CAIR opt-in permit is issued under subsection (f)(7), the department shall allocate CAIR NO<sub>x</sub> ozone season allowances to the CAIR NO<sub>x</sub> ozone season opt-in unit, and submit to the U.S. EPA the allocation for the control period in which a CAIR NO<sub>x</sub> ozone season opt-in unit enters the CAIR NO<sub>x</sub> ozone season trading program under subsection (f)(9), in accordance with subdivision (3) or (4).
- (2) By not later than July 31 of the control period in which a CAIR opt-in unit enters the CAIR NO<sub>x</sub> ozone season trading program under subsection (f)(9) and July 31 of each year thereafter, the department shall allocate CAIR NO<sub>x</sub> ozone season allowances to the CAIR NO<sub>x</sub> ozone season opt-in unit, and submit to the U.S. EPA the allocation for the control period that includes such submission deadline and in which the unit is a CAIR NO<sub>x</sub> ozone season opt-in unit, in accordance with subdivision (3) or (4).
- (3) For each control period for which a CAIR NO<sub>x</sub> ozone season opt-in unit is to be allocated CAIR NO<sub>x</sub> ozone season allowances, the department shall allocate in accordance with the following procedures:
- (A) The heat input, in million British thermal units (MMBtu), used for calculating the CAIR NO<sub>x</sub> ozone season allowance allocation shall be the lesser of the following:
- (i) The CAIR NO<sub>x</sub> ozone season opt-in unit's baseline heat input determined under subsection (f)(5).
  - (ii) The CAIR NO<sub>x</sub> ozone season opt-in unit's heat input, as determined in accordance with section 11 of this rule, for the immediately prior control period, except when the allocation is being calculated for the control period in which the CAIR NO<sub>x</sub> ozone season opt-in unit enters the CAIR NO<sub>x</sub> ozone season trading program under subsection (f)(9).
- (B) The NO<sub>x</sub> emission rate, in million British thermal units (MMBtu), used for calculating CAIR NO<sub>x</sub> ozone season allowance allocations shall be the lesser of the following:
- (i) The CAIR NO<sub>x</sub> ozone season opt-in unit's baseline NO<sub>x</sub> emissions rate, in pounds per million British thermal units (lb/MMBtu), determined under subsection (f)(6) and multiplied by seventy percent (70%).
  - (ii) The most stringent state or federal NO<sub>x</sub> ozone season emissions limitation applicable to the CAIR NO<sub>x</sub> ozone season opt-in unit at any time during the control period for which CAIR NO<sub>x</sub> ozone season allowances are to be allocated.
- (C) The department shall allocate CAIR NO<sub>x</sub> ozone season allowances to the CAIR NO<sub>x</sub> ozone season opt-in unit in an amount equaling the heat input under clause (A), multiplied by the NO<sub>x</sub> ozone season emission rate under clause (B), divided by two thousand (2,000) pounds per ton, and rounded to the nearest whole allowance as appropriate.
- (4) Notwithstanding subdivision (3) and if the CAIR designated representative requests, and the department issues a CAIR opt-in permit providing for, allocation to a CAIR NO<sub>x</sub> ozone season opt-in unit of CAIR NO<sub>x</sub> ozone season allowances under this subdivision, subject to the conditions in subsection (f)(10) and subsection (h), the department shall allocate to the CAIR NO<sub>x</sub> ozone season opt-in unit as follows:
- (A) For each control period in 2009 through 2014 for which the CAIR NO<sub>x</sub> ozone season opt-in unit is to be allocated CAIR NO<sub>x</sub> ozone season allowances as follows:
- (i) The heat input, in million British thermal units (MMBtu), used for calculating CAIR NO<sub>x</sub> ozone season allowance allocations shall be determined as described in subdivision (3)(A).
  - (ii) The NO<sub>x</sub> emission rate, in pounds per million British thermal units (lb/MMBtu), used for calculating CAIR NO<sub>x</sub> ozone season allowance allocations shall be the lesser of:
    - (AA) the CAIR NO<sub>x</sub> ozone season opt-in unit's baseline NO<sub>x</sub> emissions rate, in pounds per million British thermal units (lb/MMBtu), determined under subsection (f)(6); or
    - (BB) the most stringent state or federal NO<sub>x</sub> emissions limitation applicable to the CAIR NO<sub>x</sub> ozone season opt-in unit at any time during the control period in which the CAIR NO<sub>x</sub> ozone season opt-in unit enters the CAIR NO<sub>x</sub> ozone season trading program under subsection (f)(9).
  - (iii) The department shall allocate CAIR NO<sub>x</sub> ozone season allowances to the CAIR NO<sub>x</sub> ozone season opt-in unit in an amount equaling the heat input under clause (A)(i), multiplied by the NO<sub>x</sub> emission rate under clause (A)(ii), divided by two thousand (2,000) pounds per ton, and rounded to the nearest whole allowance as appropriate.
- (B) For each control period in 2015 and thereafter for which the CAIR NO<sub>x</sub> ozone season opt-in unit is to be allocated CAIR NO<sub>x</sub> ozone season allowances as follows:
- (i) The heat input, in million British thermal units (MMBtu), used for calculating the CAIR NO<sub>x</sub> ozone season allowance allocations shall be determined as described in subdivision (3)(A).
  - (ii) The NO<sub>x</sub> emission rate, in pounds per million British thermal units (lb/MMBtu), used for calculating the CAIR NO<sub>x</sub> ozone season allowance allocation shall be the lesser of:
    - (AA) fifteen-hundredths (0.15) pounds per million British thermal units (lb/MMBtu);
    - (BB) the CAIR NO<sub>x</sub> ozone season opt-in unit's baseline NO<sub>x</sub> emissions rate, in pounds per million British thermal units (lb/MMBtu), determined under subsection (f)(6); or
    - (CC) the most stringent state or federal NO<sub>x</sub> emissions limitation applicable to the CAIR NO<sub>x</sub> ozone

season opt-in unit at any time during the control period for which CAIR NO<sub>x</sub> ozone season allowances are to be allocated.

(iii) The department shall allocate CAIR NO<sub>x</sub> ozone season allowances to the CAIR NO<sub>x</sub> ozone season opt-in unit in an amount equaling the heat input under clause (B)(i), multiplied by the NO<sub>x</sub> emission rate under clause (B)(ii), divided by two thousand (2,000) pounds per ton, and rounded to the nearest whole allowance as appropriate.

(5) The U.S. EPA will record, in the compliance account of the source that includes the CAIR NO<sub>x</sub> ozone season opt-in unit, the CAIR NO<sub>x</sub> ozone season allowances allocated by the department to the CAIR NO<sub>x</sub> ozone season opt-in unit under subdivision (1).

(6) By September 1 of the control period in which a CAIR opt-in unit enters the CAIR NO<sub>x</sub> ozone season trading program under subsection (f)(9) and September 1 of each year thereafter, the U.S. EPA will record, in the compliance account of the source that includes the CAIR NO<sub>x</sub> ozone season ozone season opt-in unit, the CAIR NO<sub>x</sub> ozone season ozone season allowances allocated by the department to the CAIR NO<sub>x</sub> ozone season ozone season opt-in unit under subdivision (2).

\*These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.

(Air Pollution Control Board; [326 IAC 24-3-12](#))

#### [Notice of Public Hearing](#)

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